

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISIONFILED-CLERK
U.S. DISTRICT COURT
02 AUG 14 PM 1:01IN RE NORPLANT CONTRACEPTIVE
PRODUCTS LIABILITY LITIGATION§
§MDL No. 1038
ALL CASESTX EASTERN-BEAUMONT
BY *Beverly Aulbaugh*MEMORANDUM OPINION AND ORDER (1) GRANTING IN PART AND DENYING IN
PART WYETH'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE THE LEARNED
INTERMEDIARY DOCTRINE/CAUSATION AND (2) GRANTING WYETH'S MOTION
FOR PARTIAL SUMMARY JUDGMENT RE CONDITIONS FOR WHICH THERE IS NO
EVIDENCE OF CAUSATION

Pending before the court is "Wyeth's Motion For Partial Summary Judgment Re The Learned Intermediary Doctrine/Causation," filed by Defendants American Home Products Corporation, Wyeth-Ayerst Laboratories, Inc., and Wyeth Laboratories, Inc. (collectively "Defendants"), on May 25, 1999 (Dkt. #712, 713).¹ A response was filed on behalf of Plaintiffs represented by the law firms of Provost ★ Umphrey and Ness, Motley, Loadholt, Richardson & Poole on May 12, 2000 (Dkt. #747). Additionally, a number of Plaintiffs filed individual responses,² while some Plaintiffs individually filed joinders to the response filed by Provost ★ Umphrey, and Ness, Motley, Loadholt, Richardson & Poole, adopting at least some of the arguments made therein.³ Defendants filed a reply in support of their motion on June 16, 2000

¹ On March 11, 2002, American Home Products Corporation officially changed its corporate name to Wyeth, and Wyeth-Ayerst Laboratories became Wyeth Pharmaceuticals. Special Announcements, at <http://www.wyeth.com/news/special.asp> (last visited August 6, 2002).

² See "Memorandum Of Points & Authorities In Opposition To Wyeth's Four Motions For 'Partial' Summary Judgment On Behalf Of Barbara Bueno And Annette Caraveo," filed on May 9, 2000 (Dkt. # 745); "Affidavit Opposing Defendant's Four Motions For Summary Judgment," filed on May 1, 2000, on behalf of Brandy L. Linsner (Dkt. #2); "Response Of Plaintiff Karan L. Zopatti To Wyeth's Four Motions For Partial Summary Judgment," filed on May 15, 2000 (Dkt. # 751); "Plaintiff's Response To Defendant Wyeth-Ayerst Laboratories' Motions For Partial Summary Judgment," filed on May 16, 2000 on behalf of Penny and Robert Robinson (Dkt. #753); "[R]esponse to the[] motions for partial Summary Judgment," filed on May 15, 2000, by Plaintiff Christa White; and Response letter to the Law Offices of Williams & Connolly, L.L.P., from Plaintiff Ingrid Hakala, filed on May 30, 2000 (Dkt. #4).

³ See "Plaintiffs' Response To Defendants' Motions For Partial Summary Judgment Re The Learned Intermediary Doctrine, Adequacy Of Norplant Labeling And Conditions For Which There Is No Evidence

(Dkt. #758) and a supplemental reply on August 10, 2000 (Dkt. #762). Defendants contend that they are entitled to partial summary judgment because the learned intermediary doctrine shields them from liability for most of Plaintiffs' claims.

Also pending is "Wyeth's Motion For Partial Summary Judgment Re Conditions For Which There Is No Evidence Of Causation" (Dkt. #716, 717), filed on May 25, 1999.⁴ Once again, Plaintiffs represented by Provost ★ Umphrey and Ness, Motley, Loadholt, Richardson & Poole filed a joint response (Dkt. #752), and several Plaintiffs' responded individually. On June 16, 2000, Defendants replied to the responses (Dkt. #760). Upon careful consideration of the parties' submissions in light of the applicable law, the court finds that Defendants' motion for partial summary judgment regarding the learned intermediary doctrine should be GRANTED in part and DENIED in part. Defendants' motion for partial summary judgment regarding conditions for which there is no evidence of causation should be GRANTED.⁵

Of Causation," filed on May 15, 2000, on behalf of all Plaintiffs represented by the law firm of Parker & Parks (Dkt. #748); "Joinder In Memorandum In Opposition To Motion For Summary Judgment," filed on behalf of Jaylee Smith on May 15, 2000 (Dkt. #750); "Plaintiff's Brief In Opposition To Wyeth's Motions For Partial Summary Judgment," filed on behalf of Susan Port on May 15, 2000 (Dkt. #754); and "Plaintiff's Response To Defendants' Motions For Partial Summary Judgment Re The Learned Intermediary Doctrine, Adequacy Of The Norplant Labeling And Conditions For Which There Is No Evidence Of Causation," filed on June 16, 2000, on behalf of nineteen Plaintiffs represented by the law firm of Sybil Shainwald, P.C. (of counsel is Allen & Lippes) (Dkt. #757).

⁴ Defendants subsequently filed an amended motion for partial summary judgment regarding causation wherein they asked the court to defer consideration of certain side effects when ruling on the motion (Dkt. #734). On March 3, 2000, Defendants filed a second amended motion effectively requesting the court to disregard the scope of the amended motion in favor of the original motion (Dkt. #743).

⁵ Defendants filed three additional dispositive motions with the court:

- (1) "Wyeth's Motion for Partial Summary Judgment Re Adequacy Of The Norplant Labeling," filed on May 25, 1999 (Dkt. #714, 715). Provost ★ Umphrey and Ness, Motley, Loadholt, Richardson & Poole filed a response on behalf of their clients on May 12, 2000 (Dkt. #746), and several Plaintiffs filed individual responses. Defendants filed a reply on June 16, 2000 (Dkt. #759). In this motion, Defendants contend they are entitled to partial summary judgment because their physician warnings are adequate as a matter of law.

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- (2) Defendants' "Motion For Summary Judgment Re 102 Plaintiffs," filed on February 13, 2001 (Dkt. # 779, 780). No response was filed, but Defendants filed a reply on March 20, 2001 (Dkt. # 782). This motion is based on res judicata.
 - (3) Defendants also filed a "Motion To Dismiss For Want Of Prosecution" on December 4, 2000 (Dkt. #765, 766). Numerous Plaintiffs filed responses (among them, Dkt. #767, 769, 772, 774, 776, 777), and Defendants replied on February 1, 2002 (Dkt. #778).

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I. BACKGROUND

This is a multidistrict products liability action involving the Norplant prescription contraceptive device manufactured by Defendants. In 1991, Defendants introduced Norplant to the market after more than two decades of research and development. Norplant is a long term, reversible birth control device that consists of six plastic capsules. See Fact Sheet: Norplant and You (Planned Parenthood Federation of America, Inc., New York, N.Y.), Jan. 1997, at 1, available at, <http://www.plannedparenthood.org/birth-control/norplant.htm>. Each of these capsules contains the synthetic hormone levonorgestrel. Id. The capsules are implanted below the skin of a woman's upper arm and, while implanted, constantly release a small dose of levonorgestrel into the blood stream. Id. Levonorgestrel prevents pregnancy by keeping the ovaries from releasing eggs, thickening the cervical mucus, and deterring sperm from joining with an egg. Id. Statistics show Norplant to be a highly effective method of birth control: fewer than four out of 100 women who use Norplant for five years will become pregnant. Id. at 2.⁶

Central to *all* claims of each Plaintiff in this litigation is the assertion that Defendants failed to adequately warn consumers and their prescribing physicians or healthcare providers about the dangerous side effects associated with Norplant. In their motion for partial summary judgment regarding the learned intermediary doctrine, Defendants seek summary judgment against all Plaintiffs claiming to have suffered any of the 26 primary side effects listed in the "Adverse Reactions" section of Norplant's physician labeling.⁷ Defendants contend that, even if

⁶ Defendants recently announced they will not resume selling Norplant. Wyeth Won't Resume Its Sales of Norplant, HOUSTON CHRONICLE, July 27, 2002. This statement comes nearly two years after Defendants pulled Norplant from the market. Id.

⁷ The 26 side effects are as follows: bleeding irregularities (specifically, (1) many bleeding days or prolonged bleeding; (2) spotting; (3) amenorrhea; (4) irregular onsets of bleeding; (5) frequent bleeding

their labeling is shown to be inadequate, the learned intermediary doctrine requires Plaintiffs to put on evidence showing that the inadequate warnings proximately caused their alleged injuries, and they have failed to do so.

Defendants also move for partial summary judgment against all Plaintiffs who have allegedly suffered any side effect other than the 26 listed as “Adverse Reactions” in Norplant’s labeling. Plaintiffs collectively allege more than 950 other side effects (hereinafter “exotic conditions”).⁸ In short, Defendants argue that summary judgment as to the exotic side effects is proper because Plaintiffs, who have the burden to prove causation, have not come forward with any scientifically reliable evidence on general causation.

While the extensive facts of this case are well documented in other orders and opinions and need not be fully recounted here, a brief overview of the procedural history is in order. Beginning in 1994, thousands of lawsuits were filed against Defendants in state and federal courts throughout the nation. Pursuant to 28 U.S.C. § 1407, the Judicial Panel on Multidistrict Litigation transferred all federal Norplant cases to this court for consolidated pretrial handling on

onsets; (6) scanty bleeding; (7) infection at implant site; (8) pain or itching at implant site; (9) removal difficulties; (10) headaches; (11) nervousness; (12) nausea; (13) dizziness; (14) adnexal enlargement; (15) dermatitis; (16) acne; (17) change in appetite; (18) mastalgia; (19) weight gain; (20) hair loss and hair growth; (21) breast discharge; (22) cervicitis; (23) musculoskeletal pain; (24) abdominal discomfort; (25) leukorrhea; and (26) vaginitis. See Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 2, Tab 36 at unnumbered 3.

⁸ Approximately 950 exotic conditions are enumerated at Tab 35 in volume two of Defendants’ “Appendix In Support Of Wyeth’s Four Motions For Partial Summary Judgment.” Some of the many conditions claimed therein are as follows: abdominal pain, AIDS, anemia, anxiety, birth defects, dry mouth, eye problems, tumors, hepatitis, hair problems, itching, jaundice, bowel problems, lesions, nervous breakdown, ovarian problems, red eye, paralysis, sexual problems, depression, spastic colon, swelling, ulcers, warts, various fears, and hundreds of others. See Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 2, Tab 35. Basically, the exotic conditions encompass every claim of injury made by Plaintiffs against Defendants, even if not among those inscribed at Tab 35, other than claims corresponding to the 26 side effects mentioned above.

December 6, 1994. 28 U.S.C. § 1407(a) (“When civil actions involving one or more common questions of fact are pending in different districts, such actions may be transferred [by the judicial panel on multidistrict litigation] to any district for coordinated or consolidated pretrial proceedings.”). Once transferred to this court, Plaintiffs sought certification of a nationwide class of all persons who have suffered or may suffer injury as a result of using Norplant. The court denied that motion as premature on August 5, 1996, finding that bellwether trials were needed to assess the propriety of certifying such a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure.

After several Plaintiffs were selected for the first of three bellwether trials and the parties had completed discovery, Defendants moved for summary judgment on the basis of the learned intermediary doctrine. Similar to the instant motion concerning the learned intermediary doctrine, Defendants argued that the doctrine required them to warn only Plaintiffs’ prescribing physicians about the dangerous propensities of Norplant, not each individual patient, and that there was no evidence that Defendants had failed to adequately do so or that their allegedly inadequate physician warnings were the producing cause of Plaintiffs’ injuries. In re Norplant Contraceptive Prod. Liab. Litig., 955 F. Supp. 700, 702-03 (E.D. Tex. 1997), aff’d, 165 F.3d 374 (5th Cir. 1999). The court found that the learned intermediary doctrine did indeed apply to the bellwether Plaintiffs’ claims whether asserted under a theory of strict products liability, negligence, breach of implied warranty of merchantability, misrepresentation, or consumer fraud under the Texas Deceptive Trade Practices Act (“DTPA”) because the claims were essentially claims for failure to warn.⁹ Id. at 709, aff’d, 165 F.3d 374.

⁹ Because each bellwether Plaintiff had Norplant implanted in Texas, the substantive law of Texas governed Defendants’ summary judgment motion in those cases. As further discussed in this opinion,

Because the bellwether Plaintiffs failed to produce any evidence that their prescribing physicians were unaware of Norplant's complained of side effects, or that "but for" Defendants' inadequate warning labels they would not have prescribed Norplant, the court found that the bellwether Plaintiffs failed to prove causation and granted Defendants' motion for summary judgment on March 4, 1997. Id. at 709-11, aff'd, 165 F.3d 374. In reaching that decision, the court declined to recognize an exception to the learned intermediary doctrine for prescription contraceptives and rejected the assertion that the doctrine should not apply because Defendants had engaged in an aggressive direct-to-consumer advertising campaign. Id. at 705-08, aff'd, 165 F.3d 374.

The bellwether Plaintiffs appealed the court's summary judgment ruling to the Fifth Circuit. On appeal, they argued that the learned intermediary doctrine is a common law defense that does not apply to statutes like the DTPA or to claims for fraud and misrepresentation; that the court should recognize a contraceptive exception to the doctrine given that physicians play a reduced role in the selection of contraceptives and cannot be expected to convey adequate warnings to patients under the circumstances; that the doctrine should not apply because Defendants aggressively marketed Norplant directly to consumers, thereby rendering inadequate the warnings provided to physicians; and finally, that the doctrine should not apply because the FDA required Defendants to provide warnings about Norplant's side effects. On January 29, 1999, the Fifth Circuit rejected each of the bellwether Plaintiffs' arguments and affirmed this court's ruling. See In re Norplant Contraceptive Prod. Liab. Litig., 165 F.3d 374 (5th Cir. 1999).

application of the learned intermediary doctrine to the claims of the remaining Plaintiffs who had Norplant inserted in other jurisdictions depends upon the substantive law of those jurisdictions.

Shortly after the Fifth Circuit issued its opinion, Defendants filed the partial summary judgment motions now pending before the court. Not long thereafter, the parties advised the court that they were engaged in settlement negotiations and wanted the court to postpone consideration of Defendants' motions until the settlement process had run its course. In August 1999, Defendants began the process of making settlement offers that most eligible Plaintiffs in both state and federal cases were expected to accept. That prediction proved to be correct: over the next three years approximately 32,000 Plaintiffs accepted Defendants' settlement offer while another 2,970 either rejected it or failed to timely respond.

The court acknowledges the instant motions have been on file for three years, but, in the interests of judicial economy, the court wanted to wait and see which Plaintiffs would settle before ruling on the motions. Given the large number of Plaintiffs involved, however, the settlement plan moved slowly, taking several years to consummate. The last stipulations of settlement were received in April 2002. Now that the settlement process is complete, the time has come to resolve Defendants' motions.¹⁰ See, e.g., MANUAL FOR COMPLEX LITIGATION, THIRD, § 31.132, at 253 (1995) (stating that the transferee judge is empowered to rule on motions for summary judgment) (citing In re Trump Casino Sec. Litig. – Taj Mahal Litig., 7 F.3d 357, 367-68 (3d Cir. 1993)).

At this point, the court notes that, consistent with its findings in the first bellwether case, the claims of all remaining Plaintiffs are fundamentally grounded in the assertion that Defendants failed to warn them of Norplant's adverse side effects. Therefore, no matter how Plaintiffs characterize their specific claims in each individual complaint – *i.e.*, strict products

¹⁰ Defendants assert the instant motions for partial summary judgment against the 2,970 nonsettling Plaintiffs who remain in this litigation.

liability, negligence, fraud, misrepresentation, breach of warranty, et cetera – the court will treat Plaintiffs’ claims against Defendants as failure to warn claims in analyzing these motions for partial summary judgment.

II. SUMMARY JUDGMENT STANDARD

Defendants seek partial summary judgment in this case pursuant to Rule 56 of the Federal Rules of Civil Procedure. FED. R. CIV. P. 56(b). Under Rule 56, summary judgment is proper if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Id.* at 56(c). A material fact issue exists only if “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). To carry its summary judgment burden, Defendants must demonstrate that Plaintiffs have failed to establish an essential element of their cases. *International Shortstop, Inc. v. Rally’s, Inc.*, 939 F.2d 1257, 1264 (5th Cir. 1991) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986)). Because Plaintiffs bear the burden of proof at trial on the issues of adequacy of Defendants’ warning labels and causation, Defendants are not required to “produce evidence negating the existence of a material fact,” but need “only . . . point out the absence of evidence supporting [Plaintiffs’] case[s].” *Skotak v. Tenneco Resins, Inc.*, 953 F.2d 909, 913 (5th Cir. 1992) (quoting *Latimer v. Smithkline & French Lab.*, 919 F.2d 301, 303 (5th Cir. 1990)); *In re Norplant Contraceptive Prod. Liab. Litig. v. American Home Prod. Corp.*, 955 F. Supp. at 710 (citation omitted), *aff’d*, 165 F.3d at 377-78.

If Defendants satisfy their initial burden, the burden shifts to Plaintiffs to “identify specific evidence in the summary judgment record demonstrating that there is a material fact

issue concerning the essential elements” of their cases. Douglass v. United Services Auto. Ass’n, 79 F.3d 1415, 1429 (5th Cir. 1996) (citation omitted). In that situation, Plaintiffs cannot rest on allegations or denials in the pleadings and must “do more than simply show there is some metaphysical doubt as to the material facts.” Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). Moreover, “conclusory allegations, speculation, and unsubstantiated assertions are inadequate to satisfy the nonmovant’s burden.” Douglass, 79 F.3d at 1429. Of course, all evidence must be viewed in the light most favorable to the nonmoving party and all reasonable inferences must be drawn in that party’s favor. See Colson v. Grohman, 174 F.3d 498, 506 (5th Cir. 1999) (citing Anderson, 477 U.S. at 255).

III. DEFENDANTS’ MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE LEARNED INTERMEDIARY DOCTRINE/CAUSATION

A. INTRODUCTION AND RULES

In this case, Defendants invoke the learned intermediary doctrine as a bar to Plaintiffs’ recovery. The learned intermediary doctrine provides an exception to the general rule imposing a duty on manufacturers to warn consumers about the risks of their products. See Reyes v. Wyeth Lab., 498 F.2d 1264, 1276 (5th Cir. 1974); Sterling Drug, Inc. v. Cornish, 370 F.2d 82, 85 (8th Cir. 1966). Under the doctrine, a drug “manufacturer is excused from warning each patient who receives the product when the manufacturer properly warns the prescribing physician of the product’s dangers.” Porterfield v. Ethicon, Inc., 183 F.3d 464, 467-68 (5th Cir. 1999) (citing Alm v. Aluminum Co. of America, 717 S.W.2d 588, 591-92 (Tex. 1986)). Hence, a drug manufacturer’s duty to warn consumers about the dangers of its prescription drugs extends only to the prescribing physician or healthcare provider, who acts as a “learned intermediary” between the manufacturer and the ultimate consumer and assumes responsibility for advising

individual patients of the risks associated with the drug. See Skotak v. Tenneco Resins, Inc., 953 F.2d 909, 912 (5th Cir. 1992). The manufacturer's duty to warn is limited to adequately informing the healthcare provider of any risks associated with the product's use. See Brooks v. Medtronic, 750 F.2d 112 (4th Cir. 1984); Porterfield, 183 F.3d at 467-68 (observing that the manufacturer relies on the physician to pass on its warnings). "Thus, a warning to the [healthcare provider] is deemed a warning to the patient; the manufacturer need not communicate directly with all ultimate users of prescription drugs." Kirsch v. Picker Intern., Inc., 753 F.2d 670, 671 (8th Cir. 1985) (citation omitted). This is because the prescribing healthcare provider is a medical expert and can weigh the benefits of the medication against its potential dangers. Reyes, 498 F.2d at 1276-77.¹¹

If the learned intermediary doctrine applies, Plaintiffs must prove the following in order to recover for failure to warn: (1) that the product warnings given by the drug manufacturer to healthcare providers are inadequate; and (2) that the inadequate warnings were a producing cause of and/or proximately caused Plaintiffs' subsequent injuries. See Porterfield, 183 F.3d at 468.

Because the Judicial Panel on Multidistrict Litigation transferred these Norplant cases to this court pursuant to 28 U.S.C. § 1407, the undersigned is obligated to apply the substantive law of the transferor courts and treat each case as if it were pending in the district from which it was transferred. See In re Dow Sarabond Prods. Liab. Litig., 666 F. Supp. 1466, 1468 (D. Colo. 1987) (citing In re Plumbing Fixtures Litig., 342 F. Supp. 756, 758 (J.P.M.L. 1972) (citation

¹¹ When the warning to the intermediary is inadequate or misleading, however, the manufacturer remains liable for injuries sustained by the ultimate user. Porterfield, 183 F.3d at 486 (citation omitted). Put another way, if the prescribing healthcare provider is not sufficiently warned, the provider is not acting as a learned intermediary for the purpose of determining whether the warning was adequate.

omitted)); see also Van Dusen v. Barrack, 376 U.S. 612, 643-46 (1964). Moreover, given that Plaintiffs' claims are in federal court on the basis of diversity jurisdiction, the court looks to the law of the forum state to determine which jurisdiction's law governs each case. See Huddy v. Fruehauf Corp., 953 F.2d 955, 956 (5th Cir. 1992) (citing Klaxon v. Stentor Elec. Mfg., Inc., 313 U.S. 487, 496 (1941)) (citation omitted). While the vast majority of jurisdictions recognize and apply the learned intermediary doctrine to prescription drugs like Norplant, at least one state recognizes an exception to the rule that may significantly impact its applicability here. The Supreme Court of New Jersey has held that the doctrine does not apply when a drug manufacturer engages in direct-to-consumer advertising. Perez v. Wyeth Lab., Inc., 734 A.2d 1245 (N.J. 1999). Massachusetts has exempted oral contraceptives from the reach of the learned intermediary doctrine. MacDonald v. Ortho Pharm. Corp., 475 N.E.2d 65 (Mass. 1985).

Hence, when determining the applicability of the learned intermediary doctrine with regard to this motion, choice of law questions quickly arise. For example, if a hypothetical plaintiff who had Norplant inserted in New Jersey filed suit in Texas, an apparent conflict would arise between New Jersey law, which does not apply the learned intermediary doctrine to prescription contraceptives that are directly marketed to consumers, and Texas law, which does. In that instance, the court would have to apply Texas choice of law rules to determine which state's law governs. Because Texas follows the Restatement's "most significant relationship test," which presumes that the law of the state where the injury occurred should govern unless another state has a more significant relationship to the occurrence or the parties, it very well may be that New Jersey law would control and the learned intermediary doctrine would be inapplicable to this hypothetical plaintiff when considering the instant motion. See Torrington Co. v. Stutzman, 46 S.W.3d 829, 847-50 (Tex. 2000) (applying the "most significant

relationship” test to resolve Texas choice of law issue); Sanchez v. Brownsville Sports Center, Inc., 51 S.W.3d 643, 668 (Tex. Ct. App.--Corpus Christi 2001) (citation omitted); RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 6, 145 (1971). The above scenario is merely hypothetical.

As a practical matter, there will not be an actual conflict of laws with regard to the claims of most Plaintiffs who filed their suits in jurisdictions different from the one where their Norplant devices were surgically implanted because most jurisdictions would reach the same result under the learned intermediary doctrine. Nonetheless, the court will deal individually with Plaintiffs who either filed their lawsuits or had Norplant inserted in jurisdictions that limit the applicability of the learned intermediary doctrine in cases like these.

Defendants base their first motion for partial summary judgment on the learned intermediary doctrine and directed it exclusively at Plaintiffs who claim they suffer from one or more of the 26 primary side effects listed in the “Adverse Reactions” section of Norplant’s physician labeling. Defendants contend they are entitled to partial summary judgment with regard to those claims because there is no competent summary judgment evidence demonstrating that (1) Defendants failed to adequately warn Plaintiffs’ prescribing healthcare providers about those side effects; and (2) the inadequate warnings were a producing cause of and/or proximately caused any alleged injuries. See Porterfield, 183 F.3d at 468.

Defendants’ motion focuses on the second of those two elements – the causation prong – and emphasizes the absence of evidence showing that prescribing healthcare providers were unaware of Norplant’s 26 primary side effects before they prescribed the drug, or that “but for” Defendants’ inadequate warnings they would not have recommended Norplant to their patients. Defendants note, for example, that every healthcare provider to testify in a Norplant case thus far, either by affidavit, deposition, or at trial, has declared that he or she was aware of and

adequately warned about the 26 potential side effects. Defendants argue that Plaintiffs' claims cannot survive summary judgment without a proper showing of causation.

Plaintiffs respond that the question of causation is still at issue in this litigation. They point to the fact that one state court jury in Jefferson County, Texas, found that Defendants' physician warnings were inadequate and that the inadequate warnings were the producing cause of injuries to four plaintiffs.¹² They also argue that, although all testifying healthcare providers have admitted to being aware of the 26 side effects prior to prescribing Norplant, there is a fact issue about whether they were adequately warned about the potential severity of the side effects for each Plaintiff.

Additionally, Plaintiffs argue that the learned intermediary doctrine has no application here because Defendants engaged in aggressive direct-to-consumer marketing and over-promotion of Norplant, thereby nullifying the impact of Defendants' physician warnings. According to Plaintiffs, the product information Defendants provided to consumers was misleading and deceptive. Plaintiffs further contend that an exception to the learned intermediary doctrine should be recognized for contraceptive drugs and that the doctrine does not apply to claims of misrepresentation and fraud, or violations of the DTPA.

¹² The case to which Plaintiffs refer is Medrano v. American Home Prod. Corp. d/b/a Wyeth-Ayerst Lab., Cause No. B-150,760 (60th Jud. Dist. Ct., Jefferson County, Tex.). Pls.' Resp. at 2. That case was reversed on appeal and judgment was rendered in favor of Defendants on the basis of the learned intermediary doctrine. See Wyeth-Ayerst Lab. Co. v. Medrano, 28 S.W.3d 87, 91-96 (Tex. Ct. App.--Texarkana 2000); Defs.' Supp. Reply 1. The appeals court decided that the learned intermediary doctrine applies to prescription contraceptives and that nurses as well as doctors are learned intermediaries. Consequently, Plaintiffs citation is inapposite to the instant motion.

B. APPLICABILITY OF THE LEARNED INTERMEDIARY DOCTRINE TO EACH CASE

Before analyzing the substance of Defendants' motion for partial summary judgment, the court must determine to what extent the learned intermediary doctrine governs Plaintiffs' failure to warn claims at issue. Determining whether the doctrine applies in each state or territory is essential to deciding this motion because such a determination will inform the court exactly which Plaintiffs' cases are subject to this motion.¹³ After the court knows to whom the motion applies, it can proceed to resolve whether the motion should be granted or denied as to those Plaintiffs.

Defendants correctly note in their motion that this court and the Fifth Circuit previously held that the learned intermediary doctrine defines Defendants' duty to warn of the potential risks associated with the use of Norplant. See In re Norplant Contraceptive Prod. Liab. Litig., 955 F. Supp. 700, 703-9, aff'd, 165 F.3d 374. The court's ruling in the first bellwether trial, however, does not foreclose all argument in the present cases. Since the bellwether Plaintiffs had Norplant implanted in Texas, the previous rulings interpreted the application of the learned intermediary doctrine under Texas state law only. This motion is much broader in scope because it applies to all of the active Plaintiffs who claim they suffer from one or more of the 26 primary side effects listed in the "Adverse Reactions" section of Norplant's physician labeling. These Plaintiffs come from disparate jurisdictions throughout the United States. Thus, to decide how many Plaintiffs are subject to this motion, the court must initially determine which jurisdictions apply the learned intermediary doctrine, and whether any jurisdictions apply a relevant exception to the doctrine. To make such determinations, the court will survey the substantive law of each

¹³ That is, assuming each Plaintiff asserts some of the 26 "Adverse Reactions."

state and territory within the jurisdiction of the United States regarding the learned intermediary doctrine.

1. Jurisdictions That Apply The Learned Intermediary Doctrine Without An Exception Relevant To Norplant

The overwhelming majority of jurisdictions to address the issue apply the learned intermediary doctrine to define a pharmaceutical company's duty to warn of risks associated with the use of a prescription drug like Norplant. As illustrated in the table below, the doctrine either applies or is recognized, without an exception relevant to the Norplant cases, in 48 states, the District of Columbia, and Puerto Rico.

<u>JURISDICTION</u>	<u>CASE LAW APPLYING THE LEARNED INTERMEDIARY DOCTRINE</u>
(1) Alabama	<u>Stone v. Smith Kline & French Lab.</u> , 447 So.2d 1301, 1303 n.2 (Ala. 1984).
(2) Alaska	<u>Shanks v. Upjohn Co.</u> , 835 P.2d 1189, 1195 n.6 (Alaska 1992) (recognizing the learned intermediary doctrine under Alaska law) (citing <u>Polley v. GIBA-GEIGY Corp.</u> , 658 F Supp. 420, 422-23 (D. Alaska 1987)).
(3) Arizona	<u>Byer v. Best Pharmacal</u> , 577 P.2d 1084 (Ariz. 1978); <u>Piper v. Bear Med. Sys.</u> , 180 Ariz. 170, 178 (Ariz. 1993).
(4) Arkansas	<u>West v. Searle & Co.</u> , 806 S.W.2d 608 (Ark. 1991) (“[W]e are convinced that the stated public policy reasons for the learned intermediary doctrine are present with respect to oral contraceptives.”).
(5) California	<u>Carlin v. Superior Court</u> , 920 P.2d 1347 (Cal. 1996).
(6) Colorado	<u>Caveny v. CIBA-GEIGY Corp.</u> , 818 F. Supp. 1404, 1406 (D. Colo. 1992); <u>Hamilton v. Hardy</u> , 549 P.2d 1099 (1976) (applying the learned intermediary doctrine to oral contraceptives), <u>disapproved of on other grounds by</u> , <u>State Bd. of Md. Exam’r v. McCroskey</u> , 880 P.2d 1188 (Colo. 1994).
(7) Connecticut	<u>Goodson v. Searle Lab.</u> , 471 F. Supp. 546 (D. Conn. 1978) (applying the doctrine to oral contraceptives); <u>Vitanza v. Upjohn Co.</u> , 778 A.2d 829, 838-39 (Conn. 2001).

(8) Delaware	<u>Lacy v. G.D. Searle & Co.</u> , 567 A.2d 398, 400-01 (Del. 1989) (applying the doctrine to intrauterine devices).
District of Columbia	<u>MacPherson v. Searle & Co.</u> , 775 F. Supp. 417 (D.D.C. 1991) (applying the doctrine to oral contraceptives).
(9) Florida	<u>Felix v. Hoffmann-LaRoche, Inc.</u> , 540 So.2d 102, 104 (Fla. 1989); <u>Zanzuri v. G.D. Searle & Co.</u> , 748 F. Supp. 1511 (S.D. Fla. 1990) (applies the doctrine to intrauterine devices, but a fact issue as to whether the manufacturer supplied adequate warnings blocked summary judgment).
(10) Georgia	<u>Presto v. Sandoz Pharm. Corp.</u> , 487 S.E.2d 70 (Ga. Ct. App. 1997); <u>Walker v. Merck & Co.</u> , 648 F. Supp. 931 (M.D. Ga. 1986), <u>aff'd without op.</u> , 831 F.2d 1069 (11 th Cir. 1987) (applying the doctrine to prescription vaccines).
(11) Hawaii	<u>Craft v. Peebles</u> , 893 P.2d 138 (Haw. 1995) (applying the doctrine to breast implants).
(12) Idaho	<u>Silman v. Aluminum Co. of America</u> , 731 P.2d 1267, 1270-71 (Idaho 1986) (taking guidance from a Texas case and applying the doctrine).
(13) Illinois	<u>Martin by Martin v. Ortho Pharm. Corp.</u> , 661 N.E.2d 352 (Ill. 1996) (applying the doctrine to oral contraceptives).
(14) Indiana	<u>Ortho Pharm. Corp. v. Chapman</u> , 388 N.E.2d 541 (Ind. Ct. App. 1979) (applying the doctrine to oral contraceptives).
(15) Iowa	<u>Petty v. United States</u> , 740 F.2d 1428, 1440 (8 th Cir. 1984) (intimating that the doctrine is part of Iowa's common law, but refusing to apply it in a mass immunization context).
(16) Kansas	<u>Humes v. Clinton</u> , 792 P.2d 1032 (Kan. 1990) (applying the doctrine to intrauterine devices).
(17) Kentucky	<u>Snawder v. Cohen</u> , 749 F. Supp. 1473, 1480 (W.D. Ky. 1990) (acknowledging the doctrine, but not reaching the issue of whether it applies in this case).
(18) Louisiana	<u>Mikell v. Hoffman-LaRouche, Inc.</u> , 649 So.2d 75, 79-80 (La. Ct. App. 1994); <u>Rhoto v. Ribando</u> , 504 So.2d 1119 (La. Ct. App. 1987) (holding that the warnings supplied by drug manufacturers adequately informed the patient through her doctor of known risks associated with normal use of their product).
(19) Maine	<u>Violette v. Smith & Nephew Dionics, Inc.</u> , 62 F.3d 8, 13 (1 st Cir. 1995) (recognizing and applying the doctrine under Maine law).

(20) Maryland	<u>Odom v. G.D. Searle & Co.</u> , 979 F.2d 1001, 1004 (4 th Cir. 1992) (applying the doctrine to intrauterine devices under Maryland law); <u>Doe v. American Nat'l Red Cross</u> , 866 F. Supp. 242, 248 (D. Md. 1994); <u>Lee v. Baxter Healthcare Corp.</u> , 898 F.2d 146 (4 th Cir. 1990) (applying the doctrine to Maryland law in a breast implant case).
(21) Massachusetts	<u>MacDonald v. Ortho Pharm. Corp.</u> , 475 N.E.2d 65 (Mass. 1985) (holding that the doctrine applies, but creating an exception for oral contraceptives). <u>But see Linnen v. A.H. Robins Co., Inc.</u> , No. Civ. A. 97-2307, 2000 WL 89379 (Mass. Super. Ct. Dec. 14, 1999) (refusing to extend the exception created in <u>MacDonald</u> to fen-phen, arguing that <u>MacDonald</u> created a <i>narrow exception</i> to the doctrine which is confined <i>only</i> to oral contraceptives where the FDA required the manufacturer to warn the consumer directly).
(22) Michigan	<u>Reaves v. Ortho Pharmaceutical Corp.</u> , 765 F. Supp. 1287, 1291 (E.D. Mich. 1991) (applying the doctrine to oral contraceptives); see also this court's discussion in <u>In re Norplant Contraceptive Prod. Liab. Litig.</u> , 955 F. Supp. 700, 704-5 n.21, 22 (E.D. Tex. 1997) (determining that the correct reading of Michigan law shows that the learned intermediary doctrine applies), <u>aff'd</u> , 165 F.3d 374 (5 th Cir. 1999).
(23) Minnesota	<u>Mulder v. Parke Davis & Co.</u> , 181 N.W.2d 882 (Minn. 1970); <u>Kociemba v. G.D. Searle & Co.</u> , 680 F. Supp. 1293 (D. Minn. 1988) (applying the doctrine to intrauterine devices under Minnesota law); <u>Klempka v. G.D. Searle & Co.</u> , 769 F. Supp. 1061, 1065 n.4 (D. Minn. 1991) (citing <u>Kociemba</u>).
(24) Mississippi	<u>Wyeth Lab., Inc. v. Fortenberry</u> , 530 So.2d 688, 691 (Miss. 1988) (applying the doctrine in a case involving paralysis after flu vaccination).
(25) Missouri	<u>Johnston v. Upjohn Co.</u> , 442 S.W.2d 93, 94-95 (Mo. Ct. App. 1969).
(26) Montana	<u>Davis v. Wyeth Lab., Inc.</u> , 399 F.2d 121, 130 (9 th Cir. 1968) (applying the doctrine using Montana law); <u>Hill v. Squibb & Sons, E.R.</u> , 592 P.2d 1383 (Mont. 1979) ("As a general rule, the duty of a drug manufacturer to warn of the dangers inherent in a prescription drug is satisfied if adequate warning is given to the physician who prescribes it.").
(27) Nebraska	<u>Freeman v. Hoffman-La Roche, Inc.</u> , 618 N.W.2d 827 (applying the doctrine in reference to the RESTATEMENT (THIRD) OF TORTS § 6).
(28) Nevada	<u>Allison v. Merck & Co.</u> , 878 P.2d 948 (Nev. 1994) (recognizing the doctrine, but applying an exception for mass immunization to manufacturer of measles, mumps, and rubella vaccine); <u>Moses v. Danek Med., Inc.</u> , No. CV-S-95-512PMP RLH, 1998 WL 1041279, *5 (D. Nev. Dec. 11, 1998) (applying the doctrine in a case of spinal implantation).

(29) New Hampshire	<u>Brochu v. Ortho Pharm. Corp.</u> , 642 F.2d 652, 656 (1 st Cir. 1981) (applying New Hampshire law); <u>Nelson v. Dalkon Shield Claimants Trust</u> , No. 84-276-SD, 1994 WL 255392, *4 (D.N.H. Jun. 8, 1994) (applying the doctrine to intrauterine devices under New Hampshire law).
(30) New Mexico	<u>Serna v. Roche Lab.</u> , 684 P.2d 1187 (N.M. Ct. App. 1984); <u>Hines v. St. Joseph's Hosp.</u> , 527 P.2d 1075 (N.M. Ct. App. 1974).
(31) New York	<u>Martin v Hacker</u> , 185 A.D.2d 553, 554-55 (N.Y. App. Div. 1992); <u>Lindsay v. Ortho Pharm. Corp.</u> , 637 F.2d 87 (2d Cir. 1980) (applying the doctrine to oral contraceptives under New York law).
(32) North Carolina	<u>Foyle v. Lederle Lab.</u> , 674 F. Supp. 530, 535-36 (D.N.C. 1987) (applying the doctrine after acknowledging the great weight of authority supporting the doctrine's application – "[t]his 'learned intermediary' doctrine requires that defendant's motion for summary judgment on the claim of failure to warn be [granted].").
(33) North Dakota	<u>Harris v. McNeil Pharm.</u> , No. CIV 3:98CV105, 2000 WL 33339657, *4 n.4 (D.N.D. Sept. 5, 2000) ("It is well recognized that the duty an ethical [i.e., prescription] drug manufacturer owes to the consumer is to warn only physicians or others permitted to dispense prescription drugs of any risks or contraindications associated with that drug.") (citing <u>Stanbeck v. Parke, Davis and Co.</u> , 657 F.2d 642, 643 (4 th Cir. 1981) (discussing the learned intermediary doctrine)).
(34) Ohio	<u>Tracy v. Merrell Dow Pharm., Inc.</u> , 569 N.E.2d 975 (Ohio 1991) (applying the doctrine to manufacturer of nicotine chewing gum); <u>Seley v. G.D. Searle & Co.</u> , 423 N.E.2d 831 (Ohio 1981) (applying the doctrine to oral contraceptives).
(35) Oklahoma	<u>Edwards v. Basel Pharm.</u> , 933 P.2d 298 (Okla. 1997) (applying the doctrine, but noting an exception for nicotine patches because the FDA mandated direct warnings to consumers); <u>McKee v. Moore</u> , 648 P.2d 21, 24 (Okla. 1982) (applying the doctrine to intrauterine devices).
(36) Oregon	<u>McEwen v. Ortho Pharm. Corp.</u> , 528 P.2d 522 (Or. 1974) (applying the doctrine to oral contraceptives); <u>Allen v. G.D. Searle & Co.</u> , 708 F. Supp. 1142, 1148 (D. Or. 1989) (applying the doctrine to intrauterine devices under Oregon law).
(37) Pennsylvania	<u>Taurino v. Ellen</u> , 579 A.2d 925, 928 (Pa. Super. Ct. 1990) (applying the doctrine to oral contraceptives); <u>Brecher v. Cutler</u> , 578 A.2d 481 (Pa. Super. Ct. 1990) (applying the doctrine to intrauterine devices).

Puerto Rico	<u>Pierluisi v. E.R. Squibb & Sons, Inc.</u> , 440 F. Supp. 691 (D.P.R. 1977) (applying Puerto Rican law).
(38) Rhode Island	<u>Hodges v. Brannon</u> , 707 A.2d 1225 (R.I. 1998) (indicating that the doctrine applies in Rhode Island because the court mentioned a jury instruction given by the trial court showing that it had applied the doctrine at trial).
(39) South Carolina	<u>Brooks v. Medtronic, Inc.</u> , 750 F.2d 1227, 1231 (4 th Cir. 1984) (applying South Carolina law); <u>Odom v. G.D. Searle & Co.</u> , 979 F.2d 1001 (4 th Cir. 1992) (applying the doctrine to intrauterine devices under South Carolina law).
(40) South Dakota	<u>McElhaney v. Eli Lilly & Co.</u> , 575 F. Supp. 228 (D.S.D. 1983) (applying South Dakota law), <u>aff'd</u> , 739 F.2d 340 (8 th Cir. 1984).
(41) Tennessee	<u>Pittman v. Upjohn Co.</u> , 890 S.W.2d 425, 429 (Tenn. 1994); <u>Dunkin v. Syntex Lab., Inc.</u> , 443 F. Supp. 121 (W.D. Tenn. 1977) (applying the doctrine to oral contraceptives under Tennessee law).
(42) Texas	<u>In re Norplant Contraceptive Prod. Liab. Litig.</u> , 955 F. Supp. 700, 703-05 (E.D. Tex. 1997), <u>aff'd</u> , 165 F.3d 374 (5 th Cir. 1999); <u>Wyeth-Ayerst Lab. Co. v. Medrano</u> , 28 S.W.3d 87, 91 (Tex. Ct. App.--Texarkana 2000); <u>Porterfield v. Ethicon, Inc.</u> , 183 F.3d 464, 467-68 (5 th Cir. 1999) (citing <u>Alm v. Aluminum Co. of America</u> , 717 S.W.2d 588, 591-92 (Tex. 1986)).
(43) Utah	<u>Barson v. E.R. Squibb & Sons, Inc.</u> , 682 P.2d 832 (Utah 1984) (recognizing that the duty of a prescription drug manufacturer is to adequately warn the medical profession).
(44) Virginia	<u>Pfizer, Inc. v. Jones</u> , 272 S.E.2d 43 (Va. 1980) (holding that drug manufacturer was not liable for warnings adequately given to physicians).
(45) Washington	<u>Terhune v. A.H. Ruobins Co.</u> , 577 P.2d 975 (Wash. 1978) (applying the doctrine to intrauterine devices).
(46) West Virginia	<u>Pumphrey v. C.R. Bard, Inc.</u> , 906 F. Supp. 334 (N.D.W. Va. 1995) (applying the doctrine and promulgating two reasons why the court believes that West Virginia would adopt the doctrine).
(47) Wisconsin	<u>Lukaszewicz v. Ortho Pharm. Corp.</u> , 510 F. Supp. 961, 963 (D. Wis. 1981) (recognizing the doctrine under Wisconsin law, but applying an exception for oral contraceptives because federal regulations require the manufacturer to warn the patient directly).

(48) Wyoming	<u>Jacobs v. Dista Prod. Co.</u> , 693 F. Supp. 1029, 1036 (D. Wyo. 1988) (applying Wyoming law).
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Accordingly, the learned intermediary doctrine applies or is recognized, without relevant exception, in the 48 states listed above, along with the District of Columbia and Puerto Rico. In jurisdictions where the doctrine is merely recognized and not specifically applied in the common law, the court will defer to the great weight of case authority, which shows that the doctrine is applicable in the majority of jurisdictions in the United States, and consider the learned intermediary doctrine germane to the common law. Further, the highest courts in certain jurisdictions listed above have not yet decided the precise application of the doctrine. Instead, state appellate courts and federal district or appellate courts have applied the doctrine when analyzing state law. “Where the issues involved are ones upon which the state supreme court has not yet ruled, federal courts must attempt to predict how the state supreme court, if presented with the question, would decide the issue.” In re Norplant Contraceptive Prod. Liab. Litig., 955 F. Supp. at 703-5 (citing Vernon v. City of Los Angeles, 27 F.3d 1385, 1391 (9th Cir. 1994)), aff’d, 165 F.3d 374 (5th Cir. 1999). For all of those jurisdictions, the court will make an Erie guess that each state supreme court would find the learned intermediary doctrine applicable regarding the Norplant cases. Id. at 703 n.12 (stating that federal courts may consider lower state court opinions in making an Erie guess); see also Erie v. Tompkins, 304 U.S. 64 (1938).

With reference to Vermont, which is not listed in the table above, the court could not find any case making reference to the learned intermediary doctrine when discussing Vermont law. It is possible that no state or federal court in Vermont has decided whether the doctrine applies in that state. Nonetheless, based on the sheer number of jurisdictions that apply the doctrine, the

court will make an Erie guess that the Vermont supreme court, if presented with the issue, would hold that the learned intermediary doctrine applies in Vermont without an exception relevant to the Norplant cases.

Two more states merit further discussion: Massachusetts and New Jersey.¹⁴ Massachusetts, as noted in the table above, recognizes and applies the learned intermediary doctrine, but its supreme court recognizes a special exception to the doctrine for *oral contraceptives*. See MacDonald v. Ortho Pharm. Corp., 475 N.E.2d 65 (Mass. 1985). In MacDonald, the Massachusetts Supreme Court held that the learned intermediary doctrine does not shield a manufacturer of birth control pills from its duty to warn the consumer directly of the dangers inherent in the use of birth control pills. Id. at 68. The court declared that “[o]ral contraceptives . . . bear peculiar characteristics which warrant the imposition of a common law duty on the manufacturer to warn users directly of associated risks.” Id. at 69. Specifically, the court reasoned that oral contraceptives differ from other prescription drugs in five ways: (1) patients participate directly in decisions relating to the use of oral contraceptives; (2) the use of oral contraceptives presents substantial risks; (3) *the FDA has explicitly required manufacturers of this particular oral contraceptive to provide the consumer with warnings directly*; (4) the physician’s role in prescribing oral contraceptives is limited; and (5) oral communications between physicians and consumers may be insufficient to fully apprise consumers of the product’s dangers. Id. at 69-70.

Given the reasoning behind MacDonald and recent Massachusetts state court opinions, the court does not believe that MacDonald creates an exception to the learned intermediary

¹⁴ The court will discuss New Jersey law starting on page 25 below.

doctrine that renders the doctrine inapplicable to the Norplant cases. First, Norplant is an implant and not an oral contraceptive. Although some concerns voiced by the Massachusetts Supreme Court may relate to Norplant since, like oral contraceptives, it is a prescription contraceptive, one major difference is apparent: with Norplant, the FDA did not expressly require Norplant's manufacturers to warn the consumer directly. Also, at least two Massachusetts state courts interpreted MacDonald as a "narrow exception to the learned intermediary rule," thereby limiting its application to oral contraceptives only. "Massachusetts has not extended this narrow duty to warn consumers directly, even for manufacturers of other forms of birth control." Linnen v. A.H. Robins Co., Inc., No. Civ. A. 97-2307, 2000 WL 89379, at *2 (Mass. Super. Ct., Dec. 14, 1999) (citing Raimer v. Searle, Civil Action No. 870248, (Berkshire Super. Ct., Jan. 31, 1990) (holding that a manufacturer of intrauterine devices had no duty to warn the consumer about the product's risks where no federal regulations required the manufacturer to warn the consumer directly)). Thus, the court finds that the learned intermediary doctrine should be applied, without exception, to the Norplant cases in this multidistrict litigation to the extent Massachusetts law governs.

Consequently, the court will apply the doctrine, without exception, to any Plaintiff who both filed her case and had the Norplant device implanted in a state or territory listed in the table above, as well as Vermont. In looking at each case, if both jurisdictions are enumerated in the above table, the court need not conduct a conflict of laws analysis because no conflict exists when the learned intermediary doctrine applies or is recognized in the jurisdiction of filing and the jurisdiction of implantation.

A different problem arises with Plaintiffs who failed to supply the court with the jurisdiction in which Norplant was implanted. On February 17, 1998, the court signed an order

“directing all joined plaintiffs in any single case filed on or after October 4, 1996, who have failed to allege in their original complaints the state in which each joined Plaintiff had the implantation of Norplant performed, to provide the court such information via an offer of proof on or before April 17, 1998.”¹⁵ Order of Feb. 17, 1998, at 1. The court warned that it would dismiss without prejudice all joined Plaintiffs who failed to provide the court with the requested information by the aforementioned deadline. *Id.* at 2. The court further ordered “all joined plaintiffs in any single case filing Norplant claims after [February 17, 1998] to allege in their original complaints the state in which Norplant implantation was performed for each joined plaintiff.” *Id.* Thus, by now all pending Norplant Plaintiffs should have furnished the court with both the jurisdiction of filing and the jurisdiction of implantation.

Notwithstanding the previous order, the court believes that the most efficient resolution of the pending cases is by way of these motions for partial summary judgment. Accordingly, for purposes of deciding these motions, the court will proceed as follows: if Plaintiffs failed to supply the court with the state of implantation, or for some reason that information is not readily available, the court will assume the jurisdiction of implantation is the same as the jurisdiction in which Plaintiff filed her case. Thus, no choice of law analysis is necessary for those Plaintiffs.

2. The New Jersey Exception To The Learned Intermediary Doctrine In Norplant Cases

The New Jersey Supreme Court has held that the learned intermediary doctrine does not apply when a manufacturer of prescription drugs or medical devices markets its product directly to the consumer. In Perez v. Wyeth Lab. Inc., 734 A.2d 1245 (N.J. 1999), the New Jersey

¹⁵ Prior to that order, the court entered an order on October 4, 1996, “requiring that ‘joined Plaintiffs or Plaintiff-Intervenors in any single case must be represented by the same counsel and must have had their implantation of Norplant performed in the same state.’” *Id.*

Supreme Court recognized the learned intermediary doctrine, but refused to apply it in a case involving the Norplant contraceptive device because it was advertised directly to consumers in popular magazines. 734 A.2d at 1248, 1257-58. The court reasoned that such advertisements allow patients to actively participate in the choice of medication. Id. at 1256-57. Additionally, the court determined that the advertisements “encroach” on the doctor patient relationship by encouraging consumers to ask for advertised products by name. Id. at 1256. The court found that consumer advertising of Norplant “alters the calculus” of the doctrine and “belies . . . the premises on which the learned intermediary doctrine rests.” Id. at 1254, 1256. “[W]hen mass marketing of prescription drugs seeks to influence a patient’s choice of a drug, a pharmaceutical manufacturer that makes direct claims to consumers for the efficacy of its product should not be unqualifiedly relieved of a duty to provide proper warnings of the dangers or side effects of the product.” Id. at 1247.

Since Perez, no other court in any jurisdiction has directly addressed an advertising exception to the learned intermediary doctrine, making New Jersey the only jurisdiction to recognize this exception. Accordingly, New Jersey’s advertising exception renders the learned intermediary doctrine wholly inapplicable to Norplant cases in this multidistrict litigation, but only to the extent that this court is required to follow the substantive law of New Jersey in deciding the instant motion. This means that New Jersey law is in direct conflict with the law of every other jurisdiction in the United States.¹⁶ Because the court must determine which jurisdiction’s law to apply by looking at each individual case in this litigation, the court will

¹⁶ This finding is supported by the court’s conclusions above in its survey of the learned intermediary doctrine’s applicability to prescription drugs. See Table Summarizing Case Law, supra, at 17-22.

examine pending cases that have a factual nexus to New Jersey and perform a choice of law analysis, if necessary.

The court will primarily consider the jurisdiction where each Plaintiff had the Norplant device implanted, as well as the jurisdiction in which each Plaintiff filed her case. If both of these states are New Jersey, no choice of law discussion is necessary because New Jersey law clearly applies in that case and, as such, the instant motion would not pertain to that Plaintiff. However, no remaining Plaintiffs fall into this category. In the event that a Plaintiff filed her case in a jurisdiction such as Texas, but had the Norplant device implanted in New Jersey, the court would need perform a choice of law analysis because Texas law directly conflicts with New Jersey law regarding the learned intermediary doctrine. In this scenario, because the court must apply the law of the state in which each case was filed, the court would utilize Texas choice of law rules to resolve which state's substantive law applies to that particular Plaintiff. See Huddy v. Fruehauf Corp., 953 F.2d 955, 956 (5th Cir. 1992). Alternatively, if a Plaintiff filed her case in New Jersey, but Texas was the state of implantation, the court would apply New Jersey choice of law rules to that Plaintiff. After a comprehensive choice of law analysis in all necessary cases, the court will know with certainty to whom this motion applies.

a. *Plaintiffs Who Filed In New Jersey, But Had Norplant Implanted In Another Jurisdiction*

The first group of cases the court will examine are those wherein Plaintiffs filed in New Jersey, but had the Norplant device implanted in another jurisdiction. Because Plaintiffs addressed in this section filed in New Jersey, its choice of law rules apply. Erny v. Estate of Merola, 792 A.2d 1208, 1212 (N.J. 2002) (citing Fu v. Fu, 733 A.2d 1133 (N.J. 1999)).

i. New Jersey Choice Of Law Rules

New Jersey recognizes the Restatement (Second) of Conflict of Laws when determining choice of law issues. Id. at 1213. Under section 172 of the Restatement, the law of the site of the conduct and injury provides the presumptively applicable law. Id. at 1215-16; RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 172 (1971). New Jersey courts additionally employ a flexible “governmental interest” analysis to determine which jurisdiction has the greatest interest in governing the specific issue that arises in the underlying litigation. Seiderman v. American Inst. for Mental Studies, 667 F. Supp. 154, 156 (D.N.J. 1987) (citing Mellk v. Sarahson, 229 A.2d 625 (N.J. 1967)). “The first prong of the governmental-interest test requires the Court to determine whether there is an actual conflict between the laws of the states involved.” Erny, 792 A.2d at 1216 (citations omitted). Here, there is unquestionably an actual conflict between the application of the learned intermediary doctrine in New Jersey versus every other United States jurisdiction. The New Jersey Supreme Court fashioned an exception to the learned intermediary doctrine when a manufacturer of prescription drugs markets its product directly to consumers. Perez, 734 A.2d at 1257-58. In contrast, every other jurisdiction recognizes the learned intermediary doctrine without an exception for direct-to-consumer advertising. See Table Summarizing Case Law, supra, at 17-22. Those jurisdictions, though they may permit different exceptions to the doctrine, excuse a drug manufacturer from warning patients who receive its product when the manufacturer properly warns the prescribing healthcare provider of the product’s dangers regardless of any marketing to consumers.

The second prong of the governmental interest analysis requires the court to determine the interests each jurisdiction has in applying the learned intermediary doctrine, or relevant exception, to the parties in this litigation. Erny, 792 A.2d at 1216 (citation omitted); see also

Veazey v. Doremus, 510 A.2d 1187, 1189 (N.J. 1986) (Courts must “identify the governmental policies underlying the law of each state and how those policies are affected by each state’s contacts to the litigation and the parties.”) (citations omitted). “If the contacts do not align with the policies, the state has no interest in applying its law.” Erny, 792 A.2d at 1216-17 (citations omitted).

Five factors culled from section 145 of the Restatement guide courts in applying the governmental interest analysis: (1) the interests of interstate comity; (2) the interests of the parties; (3) the interests underlying the field of tort law; (4) the interests of judicial administration; and (5) the competing interests of the states. Id. (citing Fu, 733 A.2d at 1140-41); RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 145 (1971). The primary factor is the competing interests of the states. Erny, 792 A.2d at 1217. Within that factor, the court should initially focus on the policies that the New Jersey Supreme Court intended to protect by applying the advertising exception to domestic concerns, and, then, whether applying the exception to the multistate situation will further those concerns. Id. (citing Fu, 733 A.2d at 1142).

The other four factors also require individual consideration. “When considering the interests of interstate comity, a court must determine ‘whether application of a competing state’s law would frustrate the policies of other interested states.’” Id. (quoting Fu, 733 A.2d at 1141). “When determining the interests underlying the field of tort law, a court must consider ‘the degree to which deterrence and compensation, the fundamental goals of tort law, would be furthered by the application of a state’s local law.’” Id. (quoting Fu, 733 A.2d at 1141).

The court should give less weight to the final two factors in making choice of law determinations. The interests of the parties is relatively unimportant because “a person who causes an unintentional injury is not necessarily aware of the law that may be applied to the

consequences of his actions.” Id. (citing Fu, 733 A.2d at 1141). Lastly, the interests of judicial administration offer courts the opportunity to consider the “practicality of applying a specific law in a given situation; however, to the extent that that factor conflicts with a strong state policy, the factor yields.” Id. (citing Fu, 733 A.2d at 1142).

To give context to the governmental interest analysis, the court also must review the actual contacts of the parties with each related jurisdiction. The factual contacts that the court considers in determining which jurisdiction’s laws should apply include the following: (1) the place where the injury occurred; (2) the place where the conduct causing the injury occurred; (3) the domicile, residence, nationality, place of incorporation, and place of business of the parties; and (4) the place where the relationship, if any, between the parties is centered. Id. (citing Fu, 733 A.2d at 1142); see also Wuerffel v. Westinghouse Corp., 372 A.2d 659, 662-63 (N.J. Super. Ct. 1977) (quoting RESTATEMENT (SECOND) CONFLICT OF LAWS § 145 (1971)).

ii. Analysis Of New Jersey Choice Of Law Rules

The court will proceed by noting the facts considered most significant to the governmental interest test. The court derived this factual information from close perusal of the record and by examining each Plaintiff’s complaint or amended pleading. Because the court has already sifted through the specific facts of each case in preparing to draft this opinion, the court need not set forth the facts of each case here *ad nauseam*. Such attention to the minutia is unnecessary in this opinion and would prove tedious. This opinion will broadly present the facts gathered, noting any discrepancies or exceptions to the generalities where necessary.

(1) The place where the injury occurred: the court believes that the jurisdictions where Plaintiffs had Norplant implanted qualify as the places where their injuries occurred. There is no evidence indicating that any Plaintiff’s injury occurred in a place other than the jurisdiction of

implantation. Thus, for all Plaintiffs in this section, the places where their injuries occurred are jurisdictions other than New Jersey. None of the Plaintiffs who filed in New Jersey were implanted with Norplant in New Jersey.

(2) The place where the conduct causing the injury occurred: the court finds that the jurisdictions where Plaintiffs had Norplant implanted are also the places where the conduct causing the injuries occurred. No evidence suggests otherwise. Thus, for all Plaintiffs in this category, the conduct causing the injuries occurred in places other than New Jersey.

(3) The domicile, residence, nationality, place of incorporation, and place of business of the parties:

(a) Plaintiffs in this category reside in jurisdictions other than New Jersey.

(b) Defendant American Home Products Corporation is a Delaware corporation with its principal place of business in New Jersey. Defendant Wyeth-Ayerst Laboratories, Inc., subsidiary of American Home Products Corporation, is a Delaware corporation with its principal place of business in Pennsylvania. Defendant Wyeth Laboratories, Inc., is a New York Corporation with its principal place of business in Pennsylvania.

(4) The place where the relationship, if any, between the parties is centered: the places where Plaintiffs had Norplant implanted are the places where the parties' relationships are centered. Plaintiffs in this category all had Norplant implanted in jurisdictions other than New Jersey.

The aforesaid contacts are relevant to the extent that they implicate the policies underlying the conflicting applications of the learned intermediary doctrine. Erny, 792 A.2d at 1218 (citing Fu, 733 A.2d at 1142).

The court next will apply the five factors drawn from section 145 of the Restatement to determine whether New Jersey or another jurisdiction, depending on the particular case, has the most significant relationship to the occurrence and parties in question. That determination is made by identifying the governmental policies underlying each jurisdiction's application of the learned intermediary doctrine and then deciding how the contacts listed above influence those policies. Id. at 1218. As mentioned above, the competing interests of the states is the primary factor, followed by the interests underlying tort law, the interests of interstate comity, the interests of the parties, and the interests of judicial administration. Id. (citation omitted).

First, the court will examine the competing interests of New Jersey as opposed to the other jurisdictions. As previously mentioned, the learned intermediary doctrine has long acted as an exception to a manufacturer's duty to warn by allowing a drug company to warn the healthcare provider instead of the patient directly. See Porterfield v. Ethicon, Inc., 183 F.3d 464, 467-68 (5th Cir. 1999). State courts generally identify four theoretical justifications for the doctrine. First, states want to preserve the doctor-patient relationship, which could be undermined if patients received warnings from drug manufacturers that differed from their doctor's warnings. Perez, 734 A.2d at 1255 (citing Lars Noah, Advertising Prescription Drugs to Consumers: Assessing the Regulatory and Liability Issues, 32 GA. L. REV. 141, 157-59 (1997)). Second, physicians are in a better position to convey information to patients than manufacturers. Id. Third, manufacturers lack an efficient means to communicate warnings to individual consumers. Id. Finally, states are concerned that patients cannot comprehend complex medical information, and it is too burdensome for pharmaceutical companies to translate the medical jargon into understandable language. Id. At bottom, states that recognize the learned

intermediary doctrine reduce the exposure of pharmaceutical corporations to liability for product warnings.

New Jersey also recognizes the learned intermediary doctrine in certain circumstances. Perez, 734 A.2d at 1250, 1257 (“In New Jersey . . . we accept the proposition that a pharmaceutical manufacturer generally discharges its duty to warn the ultimate users of prescription drugs by supplying physicians with information about the drug’s dangerous propensities.”) (citation omitted). With the Perez decision, however, the New Jersey Supreme Court refused to apply the learned intermediary doctrine to Norplant because Defendants advertised Norplant directly to consumers. Id. at 1248, 1257-58. This decision was the first and only to recognize such an exception to the doctrine for Norplant and, in so doing, broke with every other jurisdiction on the application of the learned intermediary doctrine. See Table Summarizing Case Law, supra, at 17-22. The Perez court reasoned that direct-to-consumer advertising undercuts all four theoretical justifications for the learned intermediary doctrine. Perez, 734 A.2d at 1255-56. The court also emphasized the increasingly important part played by patient choice in modern drug prescription. Id. at 1257. The court concluded that direct advertising unduly influences consumers and belies the necessity of a learned intermediary. Id. at 1247, 1257-58. Perez essentially declines to afford drug manufacturers the benefit of using the learned intermediary doctrine as a shield from liability if they attempt to influence consumers via advertising.

Thus, the policies underlying New Jersey’s advertising exception to the learned intermediary doctrine promote accountability for drug manufacturers if they choose to advertise their products directly to consumers. Unlike New Jersey, however, every other jurisdiction considers the doctrine appropriate in litigation like Norplant. Some jurisdictions recognize

different exceptions to the doctrine, but none carve out an exception for direct-to-consumer advertising. New Jersey's policies thus reflect the minority view regarding the scope of the learned intermediary doctrine. The overwhelming majority of jurisdictions either disagree or have not yet adopted the exception as law.

The court must next examine the interests of interstate comity and determine whether application of a competing state's law would frustrate the policies of other interested states. Erny, 792 A.2d at 1217. Plaintiffs at issue filed their cases in New Jersey and, thus, the court must consider its interests. But, keeping in mind the actual contacts of the parties, New Jersey is relatively unimportant: Plaintiffs' injuries and the conduct causing the injuries occurred in jurisdictions other than New Jersey; Plaintiffs and Defendants – except Wyeth-Ayerst Laboratories, Inc., which has its principal place of business in New Jersey – reside in jurisdictions other than New Jersey; and the places where the parties' relationships are centered are jurisdictions other than New Jersey. Hence, Plaintiffs' contacts with New Jersey are minimal at best. If the court decided to apply New Jersey law to the affected Plaintiffs, it would thwart the policies of many other jurisdictions in the United States.

In addition to the above factors, the court must consider how the laws in issue promote deterrence and compensation, the fundamental goals of tort law. Erny, 792 A.2d at 1217, 1220 (citation omitted). This factor favors applying New Jersey's advertising exception to the learned intermediary doctrine. New Jersey law expresses a "weightier interest" in both deterrence and compensation than do the laws of jurisdictions that apply the doctrine without the advertising exception. Id. at 1220. The advertising exception deters tortious conduct by drug makers by making inapplicable the doctrine protecting them if they advertise their products directly to consumers. Instead of shifting the responsibility to physicians and other healthcare providers,

the New Jersey exception forces drug manufacturers to scrutinize their products and its accompanying warnings before advertising to the masses. Further, the exception provides patients another avenue toward compensation by allowing them to sue drug manufacturers for failure to warn when they could not do so before. The learned intermediary doctrine applied without the advertising exception, in contrast, limits who a patient can sue by guarding drug manufacturers from certain failure to warn claims.

The next task is to weigh the interests of the parties, which is relatively unimportant in the New Jersey choice of law rubric. Plaintiffs are interested in applying the New Jersey advertising exception to the learned intermediary doctrine ushered in by Perez because it gives them the opportunity to maintain suit against Defendants as to the 26 “Adverse Reactions.” As drug manufacturers, however, Defendants have an interest in applying the learned intermediary doctrine unimpeded by the advertising exception, making partial summary judgment proper as to the 26 “Adverse Reactions” alleged by Plaintiffs in this category. It is worth mentioning that all Plaintiffs who filed against Defendants in New Jersey did so prior to the Perez decision in 1999. Before Perez was decided by the New Jersey Supreme Court, New Jersey did not recognize an advertising exception to the doctrine.¹⁷ Plaintiffs therefore did not file in New Jersey based on the advertising exception since state law changed in the midst of this litigation. Regardless, neither side’s interests greatly affect the court’s decision on this issue.

Finally, the court must consider the interests of judicial administration. As a practical matter, this factor is neutral. Applying New Jersey law to Plaintiffs who filed in New Jersey

¹⁷ Indeed, the superior court in Perez applied the learned intermediary doctrine and granted summary judgment against the plaintiffs; the appeals court affirmed. Perez, 734 A.2d at 1245.

poses no problem to this court. Likewise, applying the laws of other jurisdictions should not prove burdensome.

The court acknowledges that these situations present close calls on the choice of law issue. After analyzing Plaintiffs' cases under New Jersey's choice of law analysis, the court finds that New Jersey law should not apply to these cases. Instead, the laws of jurisdictions with more significant contacts to each respective case should apply. The law applied will be different for each case depending on the facts, including where the injury occurred, the residences of the parties, and where the parties' relationship is based. But, ultimately, that analysis is unnecessary in this opinion because whichever jurisdiction's law applies, the learned intermediary doctrine will bar Plaintiffs' claims to the extent they allege the 26 "Adverse Reactions" listed on the Norplant labeling.

Although applying the laws of other jurisdictions undermines New Jersey's policies regarding advertising exception, the court concludes that the Restatement's presumption in favor of the law of the situs of the conduct and injury is not overcome in these cases. See RESTATEMENT (SECOND) OF CONFLICT OF LAWS §§ 145, 172 (1971). The policies put forth by New Jersey do not match up with the contacts in these cases, and "[i]f the contacts do not align with the policies, the state has no interest in applying its law." Erny, 792 A.2d at 1216-17 (citations omitted). Plaintiffs chose to file in New Jersey and Wyeth-Ayerst Laboratories, Inc.'s principal place of business is in New Jersey, but, aside from those two facts, none of the Plaintiffs in this category have any actual connection to New Jersey. New Jersey is neither the place where the conduct causing the injuries occurred nor where the injuries occurred, none of the Plaintiffs reside in New Jersey, and the parties' relationships are not centered in New Jersey. In short, New Jersey has only a slight factual nexus to Plaintiffs cases. Moreover, New Jersey

adopted the advertising exception in 1999, which was two years or more after Plaintiffs filed their cases. The learned intermediary doctrine, which was the universal rule at that time, protected drug manufacturers from failure to warn claims when they issued proper warnings. Finally, to this day every jurisdiction but New Jersey applies the learned intermediary doctrine without an exception for direct-to-consumer advertising. Therefore, Defendants motion for partial summary judgment regarding the learned intermediary doctrine applies to all Plaintiffs who filed in New Jersey, but had Norplant implanted in another jurisdiction.

b. *Plaintiffs Who Filed In Jurisdictions Other Than New Jersey, But Had Norplant Implanted In New Jersey*

The second group of cases are those wherein Plaintiffs filed in jurisdictions other than New Jersey, but had Norplant implanted in New Jersey. In such cases, the court employs the choice of law rules from the jurisdiction in which each Plaintiff filed her case to determine which jurisdiction's laws control. This analysis will also decide whether or not the learned intermediary doctrine applies. Fortunately for the court, very few Plaintiffs in this litigation had Norplant implanted in New Jersey, but filed somewhere else. These select Plaintiffs filed either in New York or Illinois, thus, limiting the court's choice of law analyses to the rules of two states. As such, the court will first examine the facts surrounding each Plaintiff who filed in New York under New York's choice of law rules to see whether New York or New Jersey substantive law governs. Then the court will do the same with Plaintiffs who filed in Illinois. If New Jersey law applies to any Plaintiff's case, neither the learned intermediary doctrine nor this motion will apply and her case likely will be remanded back to the district court where it originated.

i. New York Choice Of Law Rules And Analysis

Six Plaintiffs in this litigation had Norplant implanted in New Jersey, but filed in New York: (1) Rhonda Randazzo; (2) Linda Vitali (both 1:97-CV-7359); (3) Marie Badame (1:97-CV-7979); (4) Shaunda Taylor; (5) Rebecca Zenguis (both 1:97-CV-8125); and (6) Marva Christie (1:97-CV-8126). “When a case presents a potential choice of law issue, a court should first analyze whether there is an actual conflict between the laws in the different jurisdictions.” Bodea v. Trans. Nat. Express, Inc., 286 A.D.2d 5, 8 (N.Y. App. Div. 2001). In these cases, there is an actual conflict between the laws of New Jersey and New York concerning application of the learned intermediary doctrine. New Jersey allows an exception to the learned intermediary doctrine when drug makers market their products directly to consumers. Perez, 734 A.2d at 1257-58. New York, however, applies the learned intermediary doctrine without the advertising exception. See Martin v Hacker, 185 A.D.2d 553, 554-55 (N.Y. App. Div. 1992); Lindsay v. Ortho Pharm. Corp., 637 F.2d 87 (2d Cir. 1980) (applying the doctrine to oral contraceptives under New York law).

The “interest analysis” test is the relevant analytical approach to choice of law issues in tort actions under New York law. See Schultz v. Boy Scouts of America, Inc., 480 N.E.2d 679, 684 (N.Y. 1985). “[T]he law of the jurisdiction having the greatest interest in the litigation will be applied and the [only] facts or contacts which obtain significance in defining State interests are those which relate to the purpose of the particular law in conflict.” Id. at 684 (quoting Miller v. Miller, 237 N.E.2d 877, 879 (N.Y. 1968)). Two separate inquiries are thus required to determine which jurisdiction has the “greater interest” in the litigation: “(1) what are the significant contacts and in which jurisdiction are they located; and, (2) whether the purpose of

the law is to regulate conduct or allocate loss.” Padula v. Lilarn Props. Corp., 644 N.E.2d 1001, 1002 (N.Y. 1994) (citation omitted).

As to the first inquiry, the court notes that the significant facts or contacts consist exclusively of the parties’ domiciles and the place where the tort occurred. Schultz, 480 N.E.2d at 684. Plaintiffs Marie Badame, Shaunda Taylor, Rebecca Zenguis, and Marva Christie are domiciliaries of New Jersey. Plaintiffs Rhonda Randazzo and Linda Vitali “do not reside in a defendant’s state of incorporation or principal place of business,” which means they are domiciliaries of states other than Delaware, New York, New Jersey, or Pennsylvania. See Randazzo and Vitali Compl. at 2 (1:97-CV-7359). Defendant American Home Products Corporation is a Delaware corporation with its principal place of business in New Jersey. Defendant Wyeth-Ayerst Laboratories, Inc., is a Delaware corporation with its principal place of business in Pennsylvania. Defendant Wyeth Laboratories, Inc., is a New York Corporation with its principal place of business in Pennsylvania. The place of the tort in all cases is New Jersey – the state in which each of the six Plaintiffs had Norplant implanted.

The court must next determine whether the purpose of the dichotomous learned intermediary policies in question is to regulate conduct or allocate loss. Padula, 644 N.E.2d at 1002. “Conduct-regulating rules have the prophylactic effect of governing conduct to prevent injuries from occurring.” Id. Where the conflicting laws implicate the appropriate standards of conduct, the law of the place where the tort occurred applies “because that jurisdiction has the greatest interest in regulating behavior within its borders.” Id.; see also Schultz, 480 N.E.2d at 684-85. “Loss allocating rules, on the other hand, are those which prohibit, assign, or limit liability *after the tort occurs*” Padula, 644 N.E.2d at 1003 (emphasis added) (citations omitted). Where the conflicting laws relate to allocating losses that result from tortious conduct,

a court should apply one of three rules set forth in Neumeier v. Kuehner, 286 N.E.2d 454 (N.Y. 1972).

The learned intermediary doctrine and the New Jersey advertising exception “embody both conduct-regulating and loss-allocating functions.” Padula, 644 N.E.2d at 1003. The learned intermediary doctrine regulates conduct by requiring drug manufacturers to give proper warnings to healthcare providers to prevent injuries from occurring. However, the doctrine also allocates loss as it limits a manufacturer’s normal liability to warn patients of a product’s dangers. New Jersey’s advertising exception to the doctrine primarily regulates conduct because it does not allow drug makers to be shielded by the doctrine when they market to consumers. The court concludes that the learned intermediary doctrine and its relevant exception are primarily conduct-regulating rules, requiring that adequate warnings be given to healthcare providers or to patients directly, depending on the jurisdiction. Accordingly, the court must apply the law of New Jersey to the cases brought by Plaintiffs Rhonda Randazzo, Linda Vitali, Marie Badame, Shaunda Taylor, Rebecca Zenguis, and Marva Christie because New Jersey is the place where the torts occurred. Id. at 1002; see also Schultz, 480 N.E.2d at 684-85. As a result, the instant motion for partial summary judgment regarding the learned intermediary doctrine does *not* apply to these Plaintiffs’ cases. These six Plaintiffs’ failure to warn claims remain as to any of the 26 “Adverse Reactions” alleged.

ii. Illinois Choice Of Law Rules And Analysis

Four Plaintiffs in this litigation had Norplant implanted in New Jersey, but filed in Illinois: (1) Charlene Harris (1:97-CV-7789); (2) Deborah R. Campione; (3) Oneyda Fay; and (4) Dawn Lauterborn (all three 1:97-CV-7795). At the outset, the court observes that there is an actual conflict between New Jersey law and Illinois law regarding the applicability of the learned

intermediary doctrine in this litigation. Illinois recognizes the learned intermediary doctrine, but does not acknowledge the advertising exception accepted in New Jersey. See Martin by Martin v. Ortho Pharm. Corp., 661 N.E.2d 352 (Ill. 1996) (applying the doctrine to oral contraceptives).

“In deciding choice-of-law questions in tort cases, Illinois follows the Restatement (Second) of Conflict of Laws and uses a most-significant-contacts approach similar to the one delineated in section 145.” Wreglesworth by Wreglesworth v. Arctco, Inc., 738 N.E.2d 964, 971 (Ill. App. Ct. 2000). Courts governed by Illinois choice of law rules should apply the law of the place of injury unless another jurisdiction has a more significant relationship with the occurrence and the parties. Id.

Much like New Jersey law, the contacts to be evaluated under Illinois law include the following: (1) the place where the injury occurred; (2) the place where the conduct causing the injury occurred; (3) the domicile, residence, nationality, place of incorporation, and place of business of the parties; and (4) the place where the relationship, if any, between the parties is centered. Id.; RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 145 (1971). But, in conducting a most-significant-contacts analysis, courts should not merely tally the relevant contacts. Wreglesworth by Wreglesworth, 738 N.E.2d at 971 (citation omitted). Rather, courts should apply an “interest analysis” which involves a distinct three step process: (1) isolate the issue presented; (2) identify the relevant policies embraced in the laws in conflict; and (3) examine the contacts and determine which jurisdiction has a superior interest in having its policy applied. Id. (citations omitted).

First, the precise issue presented regarding four Plaintiffs who filed in Illinois but were implanted in New Jersey is whether the learned intermediary doctrine bars their failure to warn

claims, or whether the advertising exception in New Jersey law applies. Next, the court will examine Illinois' and New Jersey's contacts with the occurrences and the parties.

(1) The place where the injury occurred: the court notes that the four Plaintiffs in this category had Norplant implanted in New Jersey.

(2) The place where the conduct causing the injury occurred: the court finds that New Jersey also qualifies as the place where the conduct causing the injuries occurred.

(3) The domicile, residence, nationality, place of incorporation, and place of business of the parties:

(a) Plaintiff Charlene Harris is a domiciliary of New York state. Plaintiffs Deborah Campione, Oneyda Fay, and Dawn Lauterborn reside in New Jersey.

(b) Defendant American Home Products Corporation is a Delaware corporation with its principal place of business in New Jersey. Defendant Wyeth-Ayerst Laboratories, Inc., is a Delaware corporation with its principal place of business in Pennsylvania. Defendant Wyeth Laboratories, Inc., is a New York Corporation with its principal place of business in Pennsylvania.

(4) The place where the relationship, if any, between the parties is centered: the place where the four Plaintiffs had Norplant implanted is the place where the relationships between the parties are centered. Plaintiffs in this category all had Norplant implanted in New Jersey.

The only relevant contact favoring Illinois is that Plaintiffs chose to file there. It would appear from simply glancing at these contacts that New Jersey law should apply because New Jersey has the more significant relationship with the occurrence and the parties. Wreglesworth by Wreglesworth, 738 N.E.2d at 972 (citations omitted). "That conclusion is reenforced by [a] review of the policies underlying the laws in conflict." Id. (citation omitted).

New Jersey's exception to the learned intermediary doctrine for advertising stems from the affect advertising has on patients and the expanding role of patient choice in medicine. Perez, 734 A.2d at 1255-57. The learned intermediary doctrine as applied in Illinois protects pharmaceutical corporations from liability. To the extent that the two policies differ, the application of Illinois' rule would hinder the full realization of the underlying policy in New Jersey, which imposes a duty on drug manufacturers to directly warn consumers.

Taking into consideration New Jersey's and Illinois' respective contacts with the occurrence and the parties, as well as the policies underlying the two states' application of the learned intermediary doctrine, the court concludes that New Jersey has the superior interest in having its law and policies applied. See Kwasniewski v. Schaid, 607 N.E.2d 214, 217 (Ill. 1992) ("In deciding choice of law questions, Illinois courts will apply the law of the State where the tort occurred unless Illinois has a more significant relationship with the occurrence and with the parties."); Wreglesworth by Wreglesworth, 738 N.E.2d at 973 (citations omitted). Here, New Jersey is the state in which each of the four Plaintiffs were allegedly injured, and three out of the four reside in New Jersey. Illinois only matters in that Plaintiffs filed there. Thus, the contacts support New Jersey's stated policies regarding the advertising exception.

Accordingly, the court must apply the law of New Jersey to the cases brought by Plaintiffs Charlene Harris, Deborah Campione, Oneyda Fay, and Dawn Lauterborn. As a result, the instant motion for partial summary judgment regarding the learned intermediary doctrine does *not* apply to these Plaintiffs' cases. These four Plaintiffs' failure to warn claims remain as to any of the 26 "Adverse Reactions" alleged.

3. Plaintiffs Who Responded Individually To This Motion

Provost ★ Umphrey and Ness, Motley, Loadholt, Richardson & Poole filed a response to the motion, which the court discussed above. In addition, a handful of Plaintiffs not represented by those firms responded individually. The court will now examine the individual responses to this motion and determine whether the motion applies to each Plaintiff.

Defendants stipulate that their motion for partial summary judgment regarding the learned intermediary doctrine does not pertain to the following Plaintiffs: (1) Penny Robinson; (2) Robert Robinson (both 1:95-CV-5069); (3) Susan Port (1:95-CV-5049); and (4) Barbara Bueno (1:95-CV-5077). See Defs.' Reply at 10-11. These Plaintiffs do not allege any of the 26 "Adverse Reactions."

Defendants argue that the motion should be granted as to Plaintiff Annette Caraveo ("Caraveo") (1:95-CV-5078) to the extent she alleges side effects within the 26 "Adverse Reactions." Plaintiffs' response claims that Caraveo should be exempt from the motion because she complains about myasthenia gravis. Defendants, however, counter that Caraveo's interrogatory answers reveal her injuries to "include headaches, dizziness, pain in arm and tiredness." See Defs.' Reply at 11, Ex. 5. The court finds that such assertions fit within the 26 side effects. Moreover, Caraveo filed her claims in California, which is also where Norplant was implanted. Since California applies the learned intermediary doctrine to actions like Caraveo's, and because Caraveo did not present the court with any evidence that her prescribing healthcare provider did not know about the 26 possible side effects, Defendants' motion applies to the extent Caraveo alleges one or more of the 26 side effects. The motion, however, does not apply to Caraveo's claim for myasthenia gravis.

Plaintiff Brandy L. Linsner (“Linsner”) (1:95-CV-5080) responded to Defendants’ motion by submitting an unsigned affidavit. Her response states that she was diagnosed with polyarthralgia and exhibits symptoms compatible with fibromyalgia. See Linsner Aff. at unnumbered 2. Linsner also claims that she had Norplant removed because it caused her pain. Id. The court finds that Linsner’s unsigned affidavit is not competent summary judgment evidence because it is comprised solely of unsworn statements. Rule 56 of the Federal Rules of Civil Procedure allows parties to submit sworn “affidavits” as evidence in support of and opposing summary judgment. FED. R. CIV. PROC. 56(e). It is well accepted, however, that courts may not consider unsworn statements as evidence in determining the propriety of summary judgment since such statements do not comply with the requirements of Rule 56(e). See Okoye v. Univ. of Tex. Houston Health Sci. Ctr., 245 F.3d 507, 515 (5th Cir. 2001) (holding that an unsworn statement was not competent summary judgment evidence because it did not meet the requirements of Rule 56(e)) (citing Nissho-Iwai Am. Corp. v. Kline, 845 F.2d 1300, 1305-07 (5th Cir. 1988)); see also Gordon v. Watson, 622 F.2d 120, 123 (5th Cir. 1980) (citing Adickes v. S.H. Kress & Co., 398 U.S. 144, 159 (1970); Piper v. United States, 392 F.2d 462 (5th Cir. 1968)); Jones v. Menard, 559 F.2d 1282, 1285 n.5 (5th Cir. 1977)). Because Linsner did not present the court with any competent summary judgment evidence showing that her prescribing healthcare provider did not know about the 26 side effects, this motion applies to Linsner to the extent that her claims fit within the 26 side effects. The motion, however, does not apply to Linsner’s claims for polyarthralgia and fibromyalgia.

Plaintiff Ingrid Hakala (“Hakala”) (1:97-CV-7794) sent a letter to Defendants’ counsel, Williams & Connolly, which they forwarded to the court as a response. In her letter, Hakala complains of the Norplant “tubes” moving in her arm and “pressing on a nerve.” See Hakala

Letter at unnumbered 2. She further states that, as a result of Norplant, she lost feeling in her arm and an infection developed. Id. at 2-3. The court finds that her complaints come within the 26 “Adverse Reactions.” The “Adverse Reactions” warn of infection at implant site, pain at the implant site, removal difficulties, and musculoskeletal pain, which virtually match Hakala’s complaints. Hakala filed in Illinois and Maryland was the state of implantation, both of which apply the learned intermediary doctrine in cases such as Hakala’s. Because Hakala did not present the court with competent evidence showing that her prescribing healthcare provider did not know about the 26 possible side effects, Defendants’ motion applies to Plaintiff Ingrid Hakala.

Plaintiff Christa White (“White”) (1:99-CV-8945) filed a response letter alleging that Defendants’ motion does not apply to her because she complains of rheumatoid arthritis. See White Letter at unnumbered 1. Rheumatoid arthritis is not listed as one of the 26 side effects subject to this motion. Accordingly, this motion does not apply to White’s claim of rheumatoid arthritis, but it does apply to White’s claims that allege any of the 26 “Adverse Reactions.”

Plaintiff Karan Zopatti (“Zopatti”) (1:97-CV-7750) filed a response asserting that Defendants’ motion does not apply to her because she complains of complications with pre-existing autoimmune disease. See Zopatti Resp. at 2. In their reply, however, Defendants point out that Zopatti describes her injuries caused by Norplant as “‘heavy bleeding; absence of bleeding; prolonged bleeding; continued bleeding . . . breast discharge; breast enlargement; arm pain at implant site; arm numbness or tingling; fatigue [and] muscle aches.’” Defs.’ Reply at 10, Ex. 4. The court finds that the above complaints fall within the 26 “Adverse Reactions.” Further, Zopatti filed suit and had Norplant implanted in California; thus, the learned intermediary doctrine applies in her case. Because Zopatti did not present the court with any

evidence showing that her prescribing healthcare provider did not know about the possible side effects, the motion applies to Plaintiff Karan Zopatti.

C. ANALYSIS OF SUMMARY JUDGMENT EVIDENCE REGARDING CAUSATION

To overcome the learned intermediary doctrine where it applies, Plaintiffs must demonstrate both of the following: (1) that the product warnings given by the drug manufacturer to healthcare providers are inadequate; and (2) that those inadequate warnings were a producing cause of and/or proximately caused Plaintiffs' subsequent injuries. Porterfield v. Ethicon, Inc., 183 F.3d 464, 468 (5th Cir. 1999). For Plaintiffs to prove that the allegedly deficient warnings proximately caused, or, with respect to strict products liability failure to warn claims, were a producing cause of Plaintiffs' injuries, even assuming the warnings are inadequate, Plaintiffs "must show that a proper warning would have changed the decision of the treating physician, *i.e.* that but for the inadequate warning, the treating physician would not have used or prescribed the product." Willett v. Baxter Int'l, Inc., 929 F.2d 1094, 1099 (5th Cir. 1991).

The court must examine the motion to see whether it points out the absence of any genuine issue of material fact. Defendants' contend that the court must grant partial summary judgment regarding the learned intermediary doctrine because there is no evidence showing that the allegedly inadequate warnings on Norplant's physician labeling caused Plaintiffs' subsequent injuries. More specifically, Defendants argue that Plaintiffs' cases fail on the essential element of causation absent proof that each Plaintiff's prescribing healthcare provider was unaware of Norplant's 26 primary side effects when he or she prescribed the drug.

As its summary judgment evidence, Defendants first assert facts about Norplant that they deem "undisputed." They aver that Norplant was studied extensively before it was put on the market. Defs.' Mem. in Supp. of Mot. for Partial Summ. J. re the Learned Intermediary

Doctrine/Causation at 3-4. Defendants also state that the FDA approved the physician labeling, which included a list of the 26 “Adverse Reactions” possible from Norplant’s use. Id. Following FDA approval of Norplant, Defendants claim they implemented a training program designed to familiarize healthcare practitioners with Norplant. Id. at 4.

Next, Defendants offer the testimony of Anita Nelson, M.D. (“Dr. Nelson”), “a board-certified obstetrician-gynecologist and Associate Professor of Obstetrics and Gynecology at the UCLA School of Medicine,” for the proposition that all healthcare providers who counsel women about contraception should be familiar with the 26 side effects listed in Norplant’s physician labeling. Id. at 5; Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 1, Tab 34 ¶¶ 1, 20-23. Defendants argue that Dr. Nelson’s testimony “demonstrates that [P]laintiffs cannot present” proof that any prescribing physician or healthcare provider was unaware of the 26 side effects. Defs.’ Mem. in Supp. of Mot. for Partial Summ. J. re the Learned Intermediary Doctrine/Causation at 8.

Dr. Nelson was aware of the Norplant contraceptive in the late 1980's from the many reports of its “efficacy and safety, which were appearing in the professional journals” Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 1, Tab 34 ¶ 8. She had some contact with patients enrolled in a study for Norplant at that time and found the patients were “very positive about the device.” Id. at Tab 34 ¶ 8. In January 1991, Dr. Nelson participated in a three day Norplant provider training program at which she was given “extensive information about the constituents of the system, its mechanisms of action, and a detailed description of the side effects seen during the product development and testing worldwide.” Id. at Tab 34 ¶ 11. The next month, Dr. Nelson created a course for training physicians and nurse practitioners about Norplant and subsequently trained more than 100 physicians in four-hour

sessions over the next six months. Id. at Tab 34 ¶ 12. At those sessions, Dr. Nelson discussed how to select appropriate candidates for Norplant, what the expected side effects were, and any other technical issues about inserting and removing the device. Id. at Tab 34 ¶ 12. Over the following years, Dr. Nelson and her team provided training and hands-on experience to hundreds of other providers, including healthcare providers in the military, in migrant farm worker clinics, in HMOs, and Planned Parenthood clinics. Id. at Tab 34 ¶ 14. Dr. Nelson also observes that “Wyeth has provided extensive training materials to healthcare providers to learn about the Norplant Contraceptive System” throughout the years. Id. at Tab 34 ¶ 17.

Dr. Nelson then advises that Norplant was merely a novel “delivery system,” but “the hormone it provided to protect women from unintended pregnancy . . . was well known to healthcare providers.” Id. at Tab 34 ¶ 18. This synthetic hormone that provides Norplant’s only active ingredient is levonorgestrel, which has been used in birth control pills since the 1980’s. Id. at Tab 34 ¶ 18. She claims that levonorgestrel’s side effects are well known and are “virtually the same as we have seen in all hormonal contraceptive products since birth control pills were first introduced in 1960.” Id. at Tab 34 ¶ 18.

Dr. Nelson states that the 26 side effects of Norplant described in the “Adverse Reactions” section of the physician labeling “reflect the experience of thousands of women enrolled in clinical trials around the world.” Id. at Tab 34 ¶ 19. Further, over 300 articles were published on Norplant prior to its introduction into the United States market. Id. at Tab 34 ¶ 19. Dr. Nelson concludes that “any obstetrician-gynecologist, family practitioner, or other healthcare provider who as part of his or her regular practice counsels women about contraception would be

familiar with the 26 side effects described as Adverse Reactions in the physician labeling.”¹⁸ Id. at Tab 34 ¶ 20.

In addition, Dr. Nelson “reviewed portions of the deposition testimony of 34 healthcare providers who have testified in the Norplant litigation.” Id. at Tab 34 ¶ 23. After reviewing this testimony, Dr. Nelson was not surprised that all of the providers “state that they were aware of the side effects listed in the Adverse Reactions section of the physician labeling when they prescribed Norplant.” Id. at Tab 34 ¶ 23. Dr. Nelson goes further to say that she “would expect every medical professional whose regular practice included contraception counseling to testify to the same effect.” Id. at Tab 34 ¶ 23. Defendants suggest to the court that every healthcare provider who has testified in any Norplant case has made clear that they were aware of the possible side effects listed in the “Adverse Reactions” section of the Norplant physician labeling before prescribing the drug to patients. Defs.’ Mem. in Supp. of Mot. for Partial Summ. J. re the Learned Intermediary Doctrine/Causation at 11-15. Defendants therefore claim that such warnings were adequate. Based on Dr. Nelson’s testimony and the fact that no physician or nurse practitioner has testified that he or she was unaware of Norplant’s 26 potential side effects or that he or she would not have recommended Norplant had the physician warnings been different, Defendants contend that partial summary judgment is proper.

The court finds that Dr. Nelson’s affidavit and Defendants’ auxiliary evidence properly demonstrate that any competent healthcare provider would have been aware of the 26 “Adverse Reactions” listed in the Norplant physician labeling at the time he or she prescribed Norplant.

¹⁸ Dr. Nelson also surmises that such medical practitioners would also know that any given woman could experience “a variable number of those side effects,” and that “the intensity of the problems would vary in different women.” Id. at Tab 34 ¶ 21.

Defendants therefore have met their initial burden to point out the absence of a genuine issue of material fact regarding the element of causation in Plaintiffs' claims. The burden now shifts to Plaintiffs to demonstrate through the production of probative evidence that there remains an issue of fact to be tried. In particular, Plaintiffs must offer summary judgment proof establishing a fact issue with regard to the element of causation. Plaintiffs must show that a different warning about the 26 side effects in the Norplant physician labeling would have changed the decision of the treating healthcare providers who prescribed Norplant. Put another way, Plaintiffs must show that the treating providers would not have prescribed Norplant if the physician labeling had been adequate. Their position is made difficult by the fact that Defendants included the 26 side effects in Norplant's physician labeling. Defendants also adduced reliable evidence suggesting that any healthcare provider who prescribed Norplant would have been aware of the 26 side effects.

Plaintiffs' attempt to obfuscate the intent of Defendants' motion by arguing that an issue of fact remains for the element of causation because Defendants must prove that the "inserting physician was aware of *all possible* risks involved in the use of Norplant" Pls.' Resp. at 2. However, Plaintiffs' assertion is incorrect. The present motion only deals with the 26 side effects listed in Norplant's physician labeling, not "all possible" risks involved with the use of Norplant.

The heart of Plaintiffs' response contends that, contrary to Defendants' assertions, several physicians have testified that there was medical information pertaining to Norplant's risks of which they were unaware at the time of insertion. *Id.* at 3. Plaintiffs offer the deposition testimony of Dr. Peter DeWet ("Dr. DeWet"), Nurse Bonita Anne George ("Nurse George"), Dr. Harold Maury Tatum ("Dr. Tatum"), Dr. Charles Robert Moses ("Dr. Moses"), Dr. Louis John

Kirk (“Dr. Kirk”), and Dr. William Price (“Dr. Price”) – all healthcare providers who testified in a Norplant action in Jefferson County, Texas, and allegedly stated they were unaware of some information concerning Norplant’s side effects. Plaintiffs maintain that their testimony raises a genuine issue of fact regarding causation because they essentially state that if Defendants had provided them with additional information about Norplant’s risks, they would have provided such information to the patients; and that, after receiving the information, if the patients decided they did not want to use Norplant, they would not have inserted the product. Id. at 5. Plaintiffs’ contentions will be scrutinized below, however, the court notes that this motion only deals with the prescribing healthcare provider’s awareness of the 26 side effects listed in the “Adverse Reactions,” not other miscellaneous information regarding Norplant about which providers may have been unaware. Moreover, to defeat summary judgment in this motion, Plaintiffs must show that a different warning regarding the 26 possible side effects would have changed the decision of the treating healthcare provider so that he or she would not have prescribed Norplant.

Having examined the testimony of the abovementioned healthcare practitioners, the court finds that Plaintiffs did not create a fact issue on causation because the evidence fails to show that any of the healthcare providers cited by Plaintiffs were unaware of the 26 side effects listed as “Adverse Reactions.” See Defs.’ Reply at 3-5. Dr. DeWet nowhere says that he was not aware of the 26 “Adverse Reactions.” At most, he admits that he was aware that moodiness could be related to Norplant and the other side effects “possibly” could be as well. Pls.’ Resp. Ex. 1 at 47-48. Nurse George indicates that a Norplant counseling booklet did not mention mood swings or depression as possible side effects. However, neither mood swings nor depression are listed as possible “Adverse Reactions” and, furthermore, Nurse George later mentions that she would have prescribed Norplant regardless of her knowledge. Id. Ex. 2 at 119,

122. Nowhere in Dr. Tatum’s testimony does he claim that he was unaware of the 26 common side effects at issue. Id. Ex. 3 at 57, 61-62. And Dr. Moses never states that he was not aware of the 26 side effects; rather, he believes Defendants’ warnings “adequately advised [his] patient as to what to expect from the use of . . . Norplant.” Id. Ex. 4 at 61. He does say that the warnings on the physician labeling did not set forth the severity of each side effect; however, whether the healthcare providers were aware of the severity of the side effects before prescribing Norplant is not the issue in this motion. Id. Ex. 4 at 48. The issue is whether a warning was given which notified the physician of each side effect. Likewise, Dr. Kirk does not claim he was unaware of the side effects. In fact, he unequivocally states that he “knew what the side effects were.” Id. Ex. 5 at 37. Much like Dr. Kirk, Dr. Price explicitly acknowledges that he was familiar with the side effects listed in the physician labeling provided by Defendants. Id. Ex. 24 at 20-21.

It is clear to the court that Plaintiffs have failed to prove that even a single healthcare provider who prescribed Norplant was not fully aware of the 26 side effects listed as “Adverse Reactions” in the Norplant physician labeling. None of the healthcare providers expressly cited by Plaintiffs state that any additional information regarding the 26 side effects would have altered their decisions to prescribe Norplant. Further, the testimony of these six healthcare practitioners is not directly relevant to this case because there is absolutely no evidence that they prescribed Norplant to any Plaintiff in this suit.¹⁹

¹⁹ Plaintiffs also argue that Norplant was not actually prescribed by a physician in some instances, but fail to list any instances applicable to the instant litigation. Id. at 5. Rather, Plaintiffs rely on the depositions of Dr. Moses, Nurse George, Dr. Tatum, Dr. Uel Crosby, and Dr. Kirk for the proposition that Plaintiffs were counseled about the potential side effects of Norplant by a nurse or nurse’s aid. Id. These depositions refer to plaintiffs in the Norplant suit in Jefferson County. The fact that these practitioners cited by Plaintiffs did not prescribe Norplant to any Plaintiffs in this suit nullifies their argument.

Plaintiffs also issue two collateral attacks on Defendants' motion, both of which were already discussed by this court in its earlier opinion, In re Norplant Contraceptive Prod. Liab. Litig., 955 F. Supp. 700, 703-5 (E.D. Tex. 1997), aff'd, 165 F.3d 374 (5th Cir. 1999). First, Plaintiffs argue that the learned intermediary doctrine does not apply to Plaintiffs because Defendants engaged in direct-to-consumer marketing. Pls.' Resp. at 20-29. This argument is repetitive and lacks merit in all jurisdictions, except New Jersey. The Fifth Circuit reasoned that "[t]his argument is critically weakened by the absence of any evidence on the record that any of the . . . plaintiffs actually saw, let alone relied, on any marketing materials issued to them" by Defendants. In re Norplant Contraceptive Prod. Liab. Litig., 165 F.3d 374, 379 (5th Cir. 1999). The same deficiency of evidence is present in the instant cases. Plaintiffs offer no evidence that any single Plaintiff saw Norplant advertising and was influenced by it. Moreover, as evidenced by the law in the Fifth Circuit and every other jurisdiction in the United States, apart from New Jersey, direct-to-consumer advertising does not negate the applicability of the learned intermediary doctrine. As noted, however, those ten Plaintiffs whose cases are governed by the substantive law of New Jersey are exempt from this motion. Perez v. Wyeth Lab. Inc., 734 A.2d 1245, 1257 (N.J. 1999).

Second, Plaintiffs contend, in the alternative, that the learned intermediary doctrine only applies to Plaintiffs' failure to warn claims rooted in strict products liability, and not their misrepresentation, fraud, or DTPA claims. Pls.' Resp. at 29-31. The court finds Plaintiffs' argument flawed. This motion applies not only to those Plaintiffs whose cases arise under Texas law, but also to Plaintiffs whose cases arise under the laws of many other jurisdictions. Because the DTPA is the law only in Texas, it does not apply to the majority of Plaintiffs subject to this motion. It appears that this argument in Plaintiffs' response to the instant motion was drawn

verbatim from their response to Defendants' motion for summary judgment filed in 1997 relating to the first bellwether trial; nonetheless, the court will address it briefly.

This court, in In re Norplant Contraceptive Prod. Liab. Litig., 955 F. Supp. 700, aff'd, 165 F.3d 374, held that the learned intermediary doctrine applied to the bellwether Plaintiffs' claims of strict liability, negligence, misrepresentation, implied warranty, and those claims brought under the DTPA because "each claim is based upon failure to warn." 955 F. Supp. at 709, aff'd, 165 F.3d at 378. Subsequently, the Fifth Circuit affirmed, distinctly stating that the learned intermediary doctrine applies to claims made under the DTPA. In re Norplant Contraceptive Prod. Liab. Litig., 165 F.3d 374, 378 (5th Cir. 1999). Thus, Plaintiffs' argument that the learned intermediary doctrine does not bar their misrepresentation, fraud, or DTPA theories is unavailing; the doctrine applies to all of Plaintiffs' claims premised on Defendants' alleged failure to warn patients about Norplant's possible 26 "Adverse Reactions."

The court concludes that Plaintiffs have not established a fact issue regarding the element of causation. They have not met their burden because they have failed to show that a different warning in the Norplant physician labeling would have changed the decision of the practitioners who prescribed Norplant to these Plaintiffs. The totality of the evidence submitted by both sides indicates that all of the healthcare providers who prescribed Norplant were aware of the 26 common side effects in question when they prescribed it. As a result, the court finds that Defendants are entitled to partial summary judgment on Plaintiffs' failure to warn claims as to the 26 side effects listed as "Adverse Reactions" in Norplant's physician labeling.

D. SUMMARY OF THE COURT'S DECISION ON THIS MOTION

Having concluded that this motion should be granted as to 26 side effects alleged by numerous Plaintiffs, the court will summarize the results of its decision. Overall, Defendants'

motion for partial summary judgment regarding the learned intermediary doctrine is GRANTED in part and DENIED in part.

This motion covers all Plaintiffs to the extent they allege any of the 26 primary side effects listed in the “Adverse Reactions” section of Norplant’s physician labeling. See, supra, at 5-6 n.7 (enumerating the “Adverse Reactions”). Generally, this motion is GRANTED as to those numerous Plaintiffs who claim they suffer any of the 26 “Adverse Reactions.” Plaintiffs in this category both filed their cases and had Norplant implanted in jurisdictions other than New Jersey.

Defendants’ motion is GRANTED as to those Plaintiffs who filed individual responses merely joining with the overarching response filed by Provost ★ Umphrey and Ness, Motley, Loadholt, Richardson & Poole. Plaintiffs in this category include all remaining Plaintiffs represented by Parker & Parks, all remaining Plaintiffs represented by Sybil Shainwald, P.C. (of counsel is Allen & Lippes), as well as Plaintiff Jaylee Smith (1:96-CV-5431). Partial summary judgment is also GRANTED against those Plaintiffs who filed their cases in New Jersey, but had Norplant implanted in a different jurisdiction.

Several Plaintiffs not mentioned above filed individual responses to this motion for partial summary judgment: Annette Caraveo, Brandy L. Linsner, Ingrid Hakala, Christa White, and Karan Zopatti. Defendants’ motion is GRANTED as to Plaintiffs Annette Caraveo (1:95-CV-5078), Brandy L. Linsner (1:95-CV-5080), and Christa White (1:99-CV-8945) to the extent they allege any of the 26 side effects. Defendants motion is also GRANTED as to both Ingrid Hakala (1:97-CV-7794) and Karan Zopatti (1:97-CV-7750). Hakala and Zopatti do not allege side effects aside from the 26 in question.

The motion is DENIED as to Plaintiffs Penny and Robert Robinson (1:95-CV-5069); Susan Port (1:95-CV-5049); and Barbara Bueno (1:95-CV-5077) by stipulation of the parties. These Plaintiffs do not allege any of the 26 “Adverse Reactions” listed in the Norplant labeling. It is also DENIED with respect to Plaintiffs Rhonda Randazzo and Linda Vitali (1:97-CV-7359); Marie Badame (1:97-CV-7979); Shaunda Taylor and Rebecca Zenguis (1:97-CV-8125); Marva Christie (1:97-CV-8126); Charlene Harris (1:97-CV-7789); and Deborah Campione, Oneyda Fay, and Dawn Lauterborn (1:97-CV-7795) because New Jersey law applies to their cases.

In sum, this motion is GRANTED as to 2,956 Plaintiffs. This number includes all Plaintiffs except the ten who have asserted claims governed by New Jersey law, and the four Plaintiffs with respect to whom this motion is inapplicable by stipulation of the parties.

IV. DEFENDANTS’ MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING CONDITIONS FOR WHICH THERE IS NO EVIDENCE OF CAUSATION

A. INTRODUCTION

Defendants’ motion for partial summary judgment regarding conditions for which there is no evidence of causation exclusively pertains to all of the 950-odd side effects, or exotic conditions, alleged by Plaintiffs, but not covered in the Norplant physician labeling. See Defs.’ Mem. in Supp. of Mot. for Partial Summ. J. re Causation at 1; Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 2, Tab 35 (listing over 950 complained of side effects). The Norplant physician labeling provides warnings for healthcare providers only as to the 26 side effects listed as “Adverse Reactions.” The 26 side effects are the subject of the motion for partial summary judgment analyzed directly above. No warnings were given as to the 950 exotic conditions, however, and, thus, the learned intermediary doctrine cannot apply to them. Healthcare providers who have not been sufficiently warned of a drug’s harmful effects cannot

be considered learned intermediaries. See Hansen v. Baxter Healthcare Corp., 723 N.E.2d 302, 312 (Ill. Ct. App. 2000) (citation omitted); see also Porterfield, 183 F.3d at 467-68 (opining that a product manufacturer is excused from warning each patient who receives the product only when the manufacturer *properly warns* the prescribing physician of the product's dangers). Thus, separate analysis concerning the 950-odd exotic conditions is necessary to determine if partial summary judgment is proper.

Because it is imperative to explain the ramifications of this motion, the court reiterates that this motion only applies to the more than 950 exotic conditions alleged by Plaintiffs. This is not to say that each Plaintiff alleges all of the 950 conditions. The 950 number serves as the total number of exotic conditions alleged when considering all of Plaintiffs' complaints and interrogatory answers as presented to the court by Defendants. Therefore, this motion covers *every single condition alleged by every Plaintiff in this litigation*, excluding the 26 "Adverse Reactions" dealt with in Defendants' motion for partial summary judgment regarding the learned intermediary doctrine. This motion applies to all Plaintiffs regardless of which jurisdiction's law governs and regardless of the court's ruling on Defendants' motion concerning the learned intermediary doctrine. If the court grants this motion, judgment will be entered in favor of Defendants and against every Plaintiff's claim that asserts any of the exotic conditions.

B. ANALYSIS OF SUMMARY JUDGMENT EVIDENCE REGARDING CAUSATION

Defendants contend that partial summary judgment is proper as to more than 950 exotic conditions because Plaintiffs have not put forth scientifically reliable evidence of general

causation. Defendants argue that Plaintiffs have the burden to prove causation as to the exotic conditions because causation is an essential element of their failure to warn claims.²⁰

Causation is a fundamental element of Plaintiffs' failure to warn claims, as well as any other tort claim. Habecker v. Copperlory Corp., 893 F.2d 49, 54 (3d Cir. 1990) ("Causation is an essential element of a products liability (or any other tort) action."); see also RESTATEMENT (SECOND) OF TORTS § 430 (1965). Defendants claim that to prove causation Plaintiffs must proffer evidence establishing both (1) *general causation* – that Norplant implants are capable of causing Plaintiffs' alleged exotic conditions or injuries; and (2) *specific causation* – that Norplant did, in fact, cause each condition in each individual case. Rutigliano v. Valley Bus. Forms, 929 F. Supp. 779, 783 (D.N.J. 1996) (citing DeLuca by DeLuca v. Merrell Dow Pharm., Inc., 911 F.2d 941, 958 (3d Cir. 1990) (stating that testimony must be able to support a jury finding both general and specific causation); In re Agent Orange Prod. Liab. Lit., 611 F. Supp. 1223, 1250, aff'd, 818 F.2d 187 (2d Cir. 1988) (opining that to prove specific causation, plaintiff's expert must first prove general causation and follow by excluding other possible causes of injury)). The court agrees with Defendants' characterization of causation since the causation requirements in failure to warn claims are similar in all United States jurisdictions.

Thus, Defendants may discharge their burden of demonstrating there is no genuine issue of material fact as to causation by showing an absence of evidence concerning general causation. Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); FED. R. CIV. P. 56(c). In this motion, general causation addresses whether Norplant is capable of causing any of the exotic conditions alleged by Plaintiffs. Rutigliano, 929 F. Supp. at 783.

²⁰ The court decided that all of Plaintiffs' claims are grounded upon allegations of failure to warn. See, supra, at 9-10.

Evidence of general causation must be provided in the form of expert testimony that satisfies the requirements of Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993) and Rule 702 of the Federal Rules of Evidence. Norplant is a prescription drug and knowledge of its capabilities is based on scientific or other specialized information requiring interpretation by experts in the field. Id. at 589-91 (reasoning that the trial judge must act as a “gatekeeper” to ensure that all expert testimony or evidence to be heard at trial is not only relevant, but also reliable in cases where essential elements of a plaintiff’s case are entirely dependent upon expert testimony); FED. R. EVID. 701 (stating that lay witnesses cannot testify to opinions or inferences based on scientific, technical, or other specialized knowledge within the scope of Rule 702). As Defendants properly point out, “[u]nder Daubert, admissible expert testimony must be based on ‘scientific knowledge,’ that is, knowledge grounded in and based upon the ‘methods and procedures of science’ and ‘supported by appropriate validation.’” Defs.’ Mem. in Supp. of Mot. for Partial Summ. J. re Causation at 3 (citing Daubert, 509 U.S. at 589-90).

Defendants further specify that epidemiological evidence is the most useful type of expert evidence to prove general causation. Defs.’ Mem. in Supp. of Mot. for Partial Summ. J. re Causation at 4 (citing Brock v. Merrell Dow Pharm., Inc., 874 F.2d 307, 311 (5th Cir. 1989); Allen v. Penn. Eng’g Corp., 102 F.3d 194, 197 (5th Cir. 1996)). They believe this court has previously emphasized the importance of epidemiological evidence to prove that pharmaceutical products cause the conditions attributed to them. Id. at 5. In fact, this court has acknowledged the importance of epidemiological evidence that is “statistically significant” in providing a scientific basis for causation in the Norplant litigation. Before the court granted summary judgment against the five bellwether Plaintiffs, the court granted Defendants’ motion in limine to bar the bellwether Plaintiffs’ argument that Norplant caused mood changes at a rate ten times

higher than the incidence of mood changes in IUD users because there was no “statistically significant” epidemiological evidence to support their argument. See Order Granting Defs.’ Mot. in Limine to Bar Argument that the Incidence of Mood Changes was Ten Times Higher in Norplant Users Compared to IUD Users (Feb. 20, 1997). The court explained that “[e]pidemiological data that is not ‘statistically significant’ cannot provide a scientific basis for an opinion on causation.” Id. at 2 (citing Allen v. Penn. Eng’g Corp., 102 F.3d 194, 197); see also Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 1, Tab 33 ¶¶ 6, 8 (outlining the importance of statistically significant epidemiological data in determining general causation). Therefore, the court will extend its former statement on epidemiological evidence to each of the exotic conditions put forth by Plaintiffs.²¹

To prove the absence of evidence on general causation, Defendants offer the affidavit of Dr. Stephen Heartwell (“Dr. Heartwell”), an epidemiologist who serves as associate professor and Director of the Division of Maternal Health and Family Planning in the Department of Obstetrics and Gynecology at the University of Texas Southwestern Medical School. Id. at 6-7; Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 1, Tab 33. Dr. Heartwell states that there is no scientifically reliable evidence establishing that Norplant causes the exotic conditions or any conditions not listed on the physician labeling. Defs.’ Mem. in Supp. of Mot. for Partial Summ. J. re Causation 6; Defs.’ App. in Supp. of Wyeth’s Four Mots. for Partial Summ. J., Volume 1, Tab 33 ¶ 13. He bases his statements on scientific data obtained during the Phase III Norplant clinical trials and a review of the medical literature relied on by

²¹ While the court does not hold that epidemiological proof is a necessary element in all products liability cases, it is certainly a very important element where medical causation is at issue. This is especially true here as Plaintiffs must provide reliable scientific evidence linking Norplant to various and sundry health conditions.

Plaintiffs' experts in this litigation. Defs.' App. in Supp. of Wyeth's Four Mots. for Partial Summ. J., Volume 1, Tab 33 ¶ 13.

Phase III clinical trials generally are "intended to determine the safety and efficacy of a pharmaceutical product" in preparation for a New Drug Application filed with the FDA. Id. at Tab 33 ¶ 4, 5. "In a clinical trial, a control group is used as a basis for comparing the experiences of users of the product (the study group) with those who are not users of the product." Id. at Tab 33 ¶ 5. Dr. Heartwell reports that "[b]y using a control group, researchers are able to determine generally whether adverse events occur more frequently, less frequently, or with the same frequency in the study group (product users) as in . . . similar persons not using the product." Id. at Tab 33 ¶ 5. "Researchers also use tests of statistical significance to determine whether observed differences may be due to chance." Id. at Tab 33 ¶ 6. "If a statistically significant difference is *not* observed between the study group and the control group with respect to a particular adverse effect, the clinical trial provides no scientific evidence that the product is related to the adverse effect." Id. at Tab 33 ¶ 8 (emphasis added).

The Norplant Phase III clinical trials consisted of two studies using control groups, including more than 2,400 women who used the Norplant implant device. Id. at Tab 33 ¶ 9. In these trials, the control group involved women using a Copper-T Intrauterine Contraceptive Device ("IUD") for birth control. Id. at Tab 33 ¶ 9. The results of the Norplant Phase III clinical trials showed that, "[a]part from bleeding irregularities, the only conditions as to which a statistically significant increase in reporting was observed among women using Norplant" in contrast "to women using the Copper-T IUD were headache, nervousness, changes in appetite, weight gain, dermatitis, acne, nausea, mastalgia (breast tenderness), ovarian enlargement, diseases of the hair, and dizziness" – all of which are enumerated as potential "Adverse

Reactions” in the Norplant physician labeling. Id. at Tab 33 ¶ 10. Dr. Heartwell believes that the Norplant Phase III clinical findings “did not show a statistically significant association between Norplant use and any of the [exotic] side effects” Id. at Tab 33 ¶ 11.

Dr. Heartwell also discusses his review of the medical literature relied on by Plaintiffs’ experts in the instant litigation. He declares that “[n]one of these articles report any controlled epidemiological studies that show a statistically significant association between Norplant use and any of the [exotic] side effects . . . or an increased risk of any of the [exotic] side effects . . . in women using Norplant or in Norplant users compared to any control group.” Id. at Tab 33 ¶ 12.

Based on the scientific data gleaned from the Norplant Phase III clinical trials, coupled with a review of the medical literature relied on by Plaintiffs’ experts, Dr. Heartwell concludes that there is “no reliable scientific evidence that Norplant can cause any of the [exotic] side effects . . . , or even that Norplant creates an increased risk of these conditions.” Id. at Tab 33 ¶ 13. Thus, the court finds that Defendants have met their initial burden to point out the absence of a genuine issue of material fact regarding the element of causation in Plaintiffs’ claims regarding the exotic conditions. The burden now shifts to Plaintiffs to demonstrate through the production of probative evidence that there remains an issue of fact to be tried. In particular, Plaintiffs must offer summary judgment proof establishing a fact issue with regard to general causation. They must adduce affirmative evidence that an allegedly defective drug is capable of causing the complained-of conditions. See Fontenot v. Upjohn Co., 780 F.2d 1190, 1196 (5th Cir. 1986).

Instead of producing expert testimony, however, Plaintiffs argue that Defendants filed their motion prematurely because no discovery has been conducted other than the preliminary interrogatories, which do not request information concerning specific scientific causation.

Plaintiffs' argument is not well taken: "[a] claim that further discovery . . . might reveal facts which the plaintiff is currently unaware of is *insufficient* to defeat" a motion for summary judgment. Washington v. Armstrong World Indus., Inc., 839 F.2d 1121, 1123 (5th Cir. 1988) (citing Woods v. Fed. Home Loan Bank Bd., 826 F.2d 1400, 1414-15 (5th Cir. 1987)); Fontenot, 780 F.2d at 1195-96 (noting that conclusory allegations do not suffice when no evidence supports them)) (emphasis added). Plaintiffs have not submitted affidavits under Rule 56(f) stating any reasons why they are unable to meet their burden of proof in response to this motion for partial summary judgment. FED. R. CIV. P. 56(f). Furthermore, Plaintiffs have had ample time in the three years since this motion was filed to engage in discovery on general and/or specific causation. Plaintiffs have not been prohibited from engaging in such discovery.

Plaintiffs also argue that Daubert does not apply to this motion because they have the right to offer their own lay testimony regarding the injuries and damages they allegedly received as a result of using Norplant. Pls.' Resp. at 2-3. They specifically contend that Daubert is only applicable to expert testimony and Plaintiffs are not experts, but they will offer their own testimony as to the injuries caused by Norplant. Id. In essence, Plaintiffs believe that Defendants are merely seeking to limit Plaintiffs' right to testify about their specific conditions and injuries – *i.e.*, about specific causation. However, Defendants' motion for partial summary judgment regarding causation attacks Plaintiffs' dearth of evidence on "general" causation, not specific causation. The threshold issue on causation is general causation, which requires expert testimony, not personal and specific testimony as to each claim. Rutigliano, 929 F. Supp. 779, 783 (D.N.J. 1996) (citing In re Agent Orange Prod. Liab. Lit., 611 F. Supp. 1223, 1250 (E.D.N.Y. 1985) (commenting that the plaintiff's expert must prove general causation before proving specific causation)) (citation omitted); see also Allison v. McGhan Med. Corp., 184 F.3d

1300, 1320 (11th Cir. 1999). Further, Defendants agree that Plaintiffs have a right to testify about their specific ailments, but correctly assert that Plaintiffs themselves are not qualified to testify about whether Norplant is capable of causing the exotic conditions. Defs.' Reply at 3. Plaintiffs instead must adduce expert testimony, preferably in the form of epidemiological data, to establish general causation in this litigation. They have failed to do so.

Notably, in the three years since Defendants filed this motion for partial summary judgment, Plaintiffs have not produced a shred of evidence or expert testimony that supports an association between Norplant and any of the exotic conditions. When, as here, the moving party has carried its burden under Rule 56(c), its opponent must present more than a metaphysical doubt about the material facts. Washington, 839 F.2d at 1123 (citing Matsushita Elec. Indus. Co. Ltd. v. Zenith Radion Corp., 475 U.S. 574 (1986)). Plaintiffs' negligible arguments, however, do nothing more than convey a metaphysical doubt about the material facts, if even accomplishing that. Defendants' motion for partial summary judgment, along with Dr. Heartwell's affidavit, gave Plaintiffs ample opportunity to present expert testimony demonstrating that some scientific data supports a causal association between Norplant and the exotic conditions, but Plaintiffs have failed to offer any such evidence in response. As a result, the court finds that Defendants are entitled to partial summary judgment on Plaintiffs' failure to warn claims as to the more than 950 exotic conditions alleged.

C. SUMMARY OF THE COURT'S DECISION ON THIS MOTION

Defendants' motion for partial summary judgment on conditions for which there is no evidence of causation is therefore GRANTED. The motion covers every Plaintiff who alleges that Norplant produced any side effect not among the 26 listed in Norplant's labeling as "Adverse Reactions."

V. CONCLUSION

A. DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE LEARNED INTERMEDIARY DOCTRINE

After reviewing the evidence on record, the court concludes that, when viewed in the light most favorable to Plaintiffs, the summary judgment evidence supports the finding that there are no genuine issues of material fact regarding the element of causation in Plaintiffs' failure to warn claims to the extent Plaintiffs assert any of the 26 side effects itemized as "Adverse Reactions" in the Norplant physician labeling. The court finds that the learned intermediary doctrine applies in all cases not governed by New Jersey substantive law. Plaintiffs have failed to produce evidence overcoming the doctrine in that they do not show that the purportedly inadequate warnings on Norplant's labeling were either a producing cause of and/or proximately caused Plaintiffs subsequent injuries. Nor do they proffer evidence confirming that any of Plaintiffs' treating healthcare providers would not have prescribed Norplant had the labeling been different. Defendants, however, provide the affidavit of Dr. Anita Nelson, which establishes that the healthcare providers who prescribed Norplant were aware of the 26 "Adverse Reactions." Therefore, "Wyeth's Motion For Partial Summary Judgment Re The Learned Intermediary Doctrine/Causation" is hereby GRANTED in part and DENIED in part.

Unless specified below, this motion is GRANTED as to all Plaintiffs who claim they suffer any of the 26 "Adverse Reactions," including Plaintiffs who filed suit and had Norplant implanted in jurisdictions other than New Jersey; Plaintiffs who filed suit in New Jersey, but had Norplant implanted in a different jurisdiction; and Plaintiffs who filed individual responses joining with the response filed by Provost ★ Umphrey and Ness, Motley, Loadholt, Richardson & Poole.

Moreover, Defendants' motion is GRANTED as to Plaintiffs Annette Caraveo (1:95-CV-5078), Brandy L. Linsner (1:95-CV-5080), and Christa White (1:99-CV-8945) to the extent they allege any of the 26 side effects. It is also GRANTED as to both Ingrid Hakala (1:97-CV-7794) and Karan Zopatti (1:97-CV-7750) because they complain only of side effects enumerated as "Adverse Reactions."

Defendants' motion is DENIED as to Plaintiffs Penny and Robert Robinson (1:95-CV-5069), Susan Port (1:95-CV-5049), and Barbara Bueno (1:95-CV-5077) by stipulation of the parties because none of these Plaintiffs alleged any of the 26 "Adverse Reactions." The motion is also DENIED with respect to Plaintiffs Rhonda Randazzo and Linda Vitali (1:97-CV-7359); Marie Badame (1:97-CV-7979); Shaunda Taylor and Rebecca Zenguis (1:97-CV-8125); Marva Christie (1:97-CV-8126); Charlene Harris (1:97-CV-7789); and Deborah Campione, Oneyda Fay, and Dawn Lauterborn (1:97-CV-7795) because New Jersey law applies to their cases.

B. DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING CONDITIONS FOR WHICH THERE IS NO EVIDENCE OF CAUSATION

The court further concludes that, when viewed in the light most favorable to Plaintiffs, the summary judgment evidence supports the finding that there are no genuine issues of material fact regarding the element of causation in Plaintiffs' failure to warn claims to the extent Plaintiffs assert any of the side effects beyond the 26 "Adverse Reactions." This motion does not rely on the learned intermediary doctrine. In this motion, Plaintiffs, who have the burden of proof at trial and must come forward in response to a motion for partial summary judgment with some evidence on each element of their claims, submit no expert testimony on general causation. Defendants, on the other hand, advance the affidavit of Dr. Stephen Heartwell, which shows there is no scientifically reliable evidence establishing that Norplant causes any of the exotic

conditions. Because there remains no issue of fact to be tried, “Wyeth’s Motion For Partial Summary Judgment Re Conditions For Which There Is No Evidence Of Causation” is hereby GRANTED as to all Plaintiffs’ claims in this litigation that assert any of the exotic conditions.²²

C. RAMIFICATIONS OF THE COURT’S RULINGS – THE CLOSE OF MDL NO. 1038

By granting these two motions for partial summary judgment simultaneously, the court terminates nearly all remaining non-settling Plaintiffs and their claims in the Norplant multidistrict litigation proceedings. In fact, the court grants summary judgment in favor of Defendants and against 2,960 Plaintiffs in 710 cases, as listed in the attached *Appendix A*. The few Plaintiffs persisting in the wake of these motions are those who maintain claims that survive the motion for partial summary judgment regarding the learned intermediary doctrine because New Jersey law governs. Of those ten Plaintiffs, their six cases endure only to the extent they assert any of the 26 “Adverse Reactions.” Judgment will be entered in favor of Defendants with respect to every other claim in this litigation.

The court’s ruling on these two motions for partial summary judgment therefore completes the centralized pretrial proceedings pertaining to Multidistrict Litigation number 1038 (“MDL No. 1038”). See In re Dept. of Energy Stripper Well Exemption Litig., 472 F. Supp. 1282 (J.P.M.L. 1979). All but ten Plaintiffs are terminated from the litigation by judgment of this court. In re Asbestos Litig., 7 F. Supp. 2d 93, 95 (D. Mass. 1998) (citing R. MULTIDIST. LIT. 14, now 7.6 (“Actions terminated in the transferee district court by valid judgment, including . . .

²² This includes the exotic conditions claims of those Plaintiffs who survived partial summary judgment regarding the learned intermediary doctrine for one reason or another: Penny and Robert Robinson (1:95-CV-5069); Susan Port (1:95-CV-5049); Barbara Bueno (1:95-CV-5077); Rhonda Randazzo and Linda Vitali (1:97-CV-7359); Charlene Harris (1:97-CV-7789); Deborah Campione, Oneyda Fay, and Dawn Lauterborn (1:97-CV-7795); Marie Badame (1:97-CV-7979); Shaunda Taylor and Rebecca Zenguis (1:97-CV-8125); and Marva Christie (1:97-CV-8126).

summary judgment, . . . shall not be remanded by the Panel and shall be dismissed by the transferee district court.”); 28 U.S.C. § 1407(a). Thus, in accordance with 28 U.S.C. § 1407(a) and Rule 7.6 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, the court suggests that the Judicial Panel on Multidistrict Litigation remand the cases of the ten remaining Plaintiffs to their respective transferor districts because ““pretrial proceedings [for all Plaintiffs] have run their course.”” In re Asbestos Litig., 7 F. Supp. 2d at 94 (citing Lexecon Inc. v. Milberg Weiss, 118 S. Ct. 856, 962 (1998)); 28 U.S.C. § 1407(a) (“Each action . . . transferred shall be remanded by the panel at or before the conclusion of . . . pretrial proceedings to the district from which it was transferred unless it shall have been previously terminated.”). Listed below are the names of the remaining ten Plaintiffs, their assigned MDL No. 1038 case numbers, and the district courts and divisions from which they were transferred:

(1) Plaintiffs Rhonda Randazzo and Linda Vitali (1:97-CV-7359) were transferred from the Southern District of New York, New York Division;

(2) Plaintiff Marie Badame (1:97-CV-7979) was transferred from the Southern District of New York, White Plains Division;

(3) Plaintiffs Shaunda Taylor and Rebecca Zenguis (1:97-CV-8125) were also transferred from the Southern District of New York, White Plains Division;

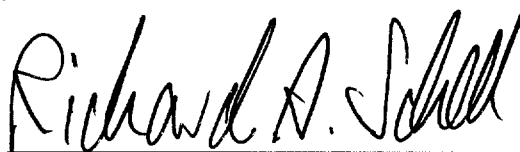
(4) Plaintiff Marva Christie (1:97-CV-8126) was transferred from the Southern District of New York, White Plains Division;

(5) Plaintiff Charlene Harris (1:97-CV-7789) was transferred from the Northern District of Illinois, Eastern Division; and

(6) Plaintiffs Deborah R. Campione, Oneyda Fay, and Dawn Lauterborn (1:97-CV-7795) were also transferred from the Northern District of Illinois, Eastern Division.

The court recommends that the Judicial Panel on Multidistrict Litigation remand these cases to the aforesaid districts with instructions to apply New Jersey substantive law to Plaintiffs' remaining claims. It is so ORDERED.

SIGNED this the 14th day of August 2002.

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style with a large initial "R".

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE

APPENDIX A

<u>Case Number</u>	<u>Plaintiffs</u>
1:94cv5001	Lisa Skinner
1:94cv5002	Roseanne Mitchell
1:94cv5005	Susan Williams
1:94cv5008	Deadra Lillie
	Randy Lillie
1:94cv5009	Robin Malain
1:94cv5012	Del Baird
1:94cv5013	Lynette Vogel
1:94cv5015	Cathy Bernish
1:94cv5017	Christina Horner
	Jane Doe
	Bonnie Abbot
	Elva Gutierrez
	Jane Doe
1:94cv5026	Jennifer Khuu
1:94cv5028	Earserlene Smith
1:94cv5029	Melissa Wilkerson
1:94cv5032	Lydia Oliver
1:95cv5045	Patricia Herron
1:95cv5048	Denise Hobbs
	Hazel Cox
	Shelly Martin
	Juliette Davis
1:95cv5049	Susan Port
1:95cv5057	Jewel Cannon
1:95cv5058	Linda Millette
	Particia Pledger
1:95cv5063	Barbara Morrison
1:95cv5069	Penny Robinson
	Robert Robinson
1:95cv5071	Linda Anderson
	Ladonna Dark
1:95cv5072	Tonya Redding
1:95cv5077	Barbara Bueno
1:95cv5078	Annette Caraveo
1:95cv5080	Brandy Linsner
1:95cv5081	Tammy Binet
1:95cv5087	Sam Robins
	Dana Robins
1:95cv5089	Jerri Ware
	James Ware
1:95cv5092	Patricia Matson
1:95cv5093	Latrice Lee
	Marlissa Locke

1:95cv5098	Yara Allen
	Ginger Alliss
	Shawnnee Booth
	Antonietta Capocasa
	Stacy Carter
	Serese Gilbert
	Nickiey Kochell
	Debbie Lade
	Janet Lindsey
	Kim Mikel
	Jeannie Miller
	Cindy Moreman
	Lora Nelson
	Eileen Weber
1:95cv5106	Rosalyn Mattingly
1:95cv5111	Nicole Peterson
1:95cv5115	Lisa Rioux
1:95cv5128	Nancy Garza
1:95cv5148	Amanda Mungia
1:95cv5155	Mary Hagee
1:95cv5160	Mary Brown
	Melissa Brown
1:95cv5166	Angela Coble
	Melody Harvey
	Rebecca House
1:95cv5172	Tessa Campbell
	Jamie Campbell
1:95cv5173	Joan Armstrong
	Daniel Becnel, Jr
1:95cv5174	Crystal Elam
1:95cv5175	Tracy Gonzales
	Jessica Gonzalez
	Elizabeth Gonzalez
	Gudelia Gutierrez
1:95cv5176	Angela Ryals
1:95cv5177	Esther Salinas
1:95cv5179	Cindy Henderson
	Graciela Hernandez
1:95cv5182	Daniel Becnel, Jr
1:95cv5184	Mitzie Hubert
	Tina Hughes
1:95cv5187	Janice Griffin
1:95cv5198	Kelley Jackson
1:95cv5199	Alasha Fowler
1:95cv5200	Christina Dehnel
1:95cv5204	Teresha Collins
1:95cv5208	Ivory Celestine
1:95cv5212	Jacquelin Branch
1:95cv5213	Vicky Belvin

1:95cv5216	Mechelle Caldwell
1:95cv5220	Ramona Avalos
1:95cv5225	Michelle Mouton
1:95cv5226	Franchell Whitefield
1:95cv5227	Kimberline Williams
	Traci Williams
1:95cv5228	Ta-Ta Wilson
1:95cv5229	Lisa Wooten
1:95cv5233	Lisa Waites
1:95cv5239	Dawana Thomas
1:95cv5241	Anita Richardson
	Marietta Riddel
1:95cv5248	Judy Seay
1:95cv5249	Paula Scott
1:95cv5260	Emilia Medrano
1:95cv5261	Suzi Renshaw
1:95cv5262	Mia Reed
	Virginia Reyes
1:95cv5269	Lee Ann Phipps
1:95cv5270	Quinta Moore
1:95cv5274	Robin Leveston
1:95cv5275	Arienna Adams
1:95cv5279	Autumn Powell
1:95cv5284	Michelle Naranjo
	Sandra Nava
1:95cv5301	Yen Phan
1:95cv5319	Rosalind Barthelemy
	Gary Barthelemy
	Nekitha Tyler
	Edna Williamson
1:95cv5320	Shamar Carpenter
1:95cv5323	Jenny Saucedo
	Carlos Saucedo
1:95cv5325	Hong Huynh
1:95cv5327	Cindy Price
	Laura Riley
	Ronda Hampton
	Penny Burchett
	Tammy Limings
1:95cv5332	Amber Carr
	Brenda Miller
1:95cv5334	Veronica Anderson
1:95cv5335	Elizabeth Brownfield
	Stephanie Feinman
1:95cv5339	Renee Nolasco
	Tressa Rickard
	Sophia Rivera
	Felipe Rivera
	Nisa Stevens

1:95cv5339 (Cont.)	Lynnae' Thompson
	Debra Walker
	Becky Weeks
	Gregory Weeks
1:95cv5340	Zilke Lewis
1:95cv5341	Clemente Zamora
1:95cv5359	Angela Erbes
1:95cv5360	Kimberly Beverage
1:95cv5361	Malena Medina
1:95cv5364	Tiffany Walker
1:95cv5366	Cynthia Rodriguez
1:95cv5369	April Montague
1:96cv5384	Angela Garland
1:96cv5385	Monica Glenn
1:96cv5388	Amanda Smith
1:96cv5396	Kimberly Davis
	Michelle Meyer
	Mark Meyer
	Annette Rivera
	Michael Rivera
	Sonya Rogers
	Dorothy Toney
	Damien Toney
1:96cv5397	Tracy Vollenweidner
	Steven Vollenweidner
1:96cv5401	Timmy Ammons
1:96cv5410	Kimberly Weeks
	Shurma Herrington
	Jeannine Jones
	Pamela Wipff
1:96cv5414	Latorrie Baines
1:96cv5424	Latasha Allen
	Mattie Allen
	Troy Allen
	Alodie Bab
	Roger Bouffe, II
	Latonia Brisco
	Yolanda Brisco
	Howard Buckner
	Jasmine Buckner
	Bertha Christoph
	Shawanda Ferrell
	Dwayne Johnson
	Xiomara Ramos
	Olivia Richardson
	Rose Smith
1:96cv5431	Jaylee Smith
1:96cv5433	LaTonya Elloie
	Steven Elloie

1:96cv5434	Barbara Miller Johnny Miller, III Subeana Ducros Lakeisha Howard
1:96cv5437	Michelle Pretel
1:96cv5447	Gina Trampusch Peter Trampusch
1:96cv5452	Louise Martinez
1:96cv5458	Shelly Schafer Tracy Portis
1:96cv5459	Alicia Williams
1:96cv5460	Marcy Behrendt Mathew Behrendt
1:96cv5468	Sonya Walker
1:96cv5476	Shelly Ming
1:96cv5483	Aurelia Bautista Alicia Carcione Mary Delgado Lynn Dempsey Maria Hinojosa
1:96cv5490	Melissa Kennedy
1:96cv5492	Barbara Godwin
1:96cv5496	Velma Hollingshed
1:96cv5499	Wendy Sanders
1:96cv5505	Rachelle Risley Ana Rodriguez
1:96cv5521	Dawn Beaty
1:96cv5523	Nina Dickerson
1:96cv5532	Delores Hernandez
1:96cv5535	Cherryl Williams
1:96cv5542	Sofia Sanchez
1:96cv5543	Angelique Freeman
1:96cv5544	Dana Stedham Lillian Acuna Ana Paredes Monica Harris Dolores Pon Stacy Sanchez
1:96cv5545	Susana Cuellar Michelle Mendoza Joe Mendoza Cecilia Vargas Julain Pecian Cynthia Vela
1:96cv5547	Mekisha Walker Marion Winsier

1:96cv5548	Sundon Lewis Derrick Lewis Lisa McClelland Shayne McClelland
1:96cv5549	Evelyn Leyba Richard Rodriquez Maria Lozano Tina Rodriquez
1:96cv5550	Alma Aguilar-Greenwood Steven Greenwood Victoria Emerson Paulakai Furgerson Barry Furgerson
1:96cv5552	Bonnie Garcia Victoria Hansen
1:96cv5553	Penny Gonzales Douglas Gonzales, Jr. Virginia Hammond Jeremy Hammond
1:96cv5556	Kimberly Richard
1:96cv5557	Diana Pritchett Curtis Pritchett Lanisha Smith
1:96cv5558	Kimberly Hobbs Ricky Hobbs Marilyn McWilliams Oram McGee Bethany Meade Sister-Sherry Odom
1:96cv5561	Flor Ayala Cassandra Carter
1:96cv5563	Pamela Peek Ines Rivera Jose Guillen
1:96cv5564	Juanita Lowe James Lowe
1:96cv5565	Rose Brown-Leonard Robert Leonard Stacie Green Kevin Green
1:96cv5569	Lashondra Johnson
1:96cv5571	Lashonda Ingram Shyhonda Turner Danita LaFrance Shannon Samson Nyia Williams Gail Stockman Nekitha Tyler Shawn Pansy

1:96cv5571 (Cont.)	C'lester Jackson, Jr. C'lester Jackson, III Christian Jackson Valarie Gubert Lark Heston Arionna Ducre Jamika Wynder Jalissa Wynder Johnny Hicks
1:96cv5572	Delisa Grant Lisa Johnson
1:96cv5573	Roni Huerepue Deborah Martin Tammy Medina Lisa Munoz Yolanda Lazareno Antoinette Neyuenshwander Elaine Olibas Sharon Padilla Jennifer Parra Veanna Pitts Diana Rodriguez Laura Rowser Maile Saavedra
1:96cv5574	Olga Velasquez Teresa Womack
1:96cv5578	Perline Williams
1:96cv5579	Lisa Moore
1:96cv5580	Kathleen Schenck Tonette Smith Rebecca Williams
1:96cv5582	Jennifer Neill Elizabeth Ray
1:96cv5585	Zoe Merlos-Tooker Alexander Merlos
1:96cv5586	Dody Shelton
1:96cv5587	Tammie King James King, Jr. Deborah Williams-Bailey
1:96cv5589	Diana Land Michael Land
1:96cv5590	Martha Garza Luis Garza
1:96cv5591	Kara Davis John Davis Greta Williams Prennis Williams

1:96cv5592	Deana Magelors Bridget Moody Hanga Moody Judy Sutton
1:96cv5597	Shannon Hardin Michelle Howard Jeffrey Howard
1:96cv5598	Cathilene Hoffman Edward Hoffman Brenda Pickens
1:96cv5602	Trudy Bellaire
1:96cv5603	Paula Hooper Willie Jeff Gwendolyn Jefferson Jamie King Wendy Langley Kenneth Lott
1:96cv5604	Rutina Buckner
1:96cv5607	Rebecca Welch Ashton Welch
1:96cv5608	Maria Ramon Kimberly Waldrip Johnny Waldrip
1:96cv5609	Christin Contie Paul Contie Sadie Muniz Fernando Muniz
1:96cv5610	Lilian Ayala Ruben Ayala
1:96cv5611	Kathy Johnson
1:96cv5612	Carletta Angelly James Angelly
1:96cv5632	Shelby Bartholomew K. Smith
1:96cv5645	Jocelyn Garcia Pedro Garcia
1:96cv5676	Teresa Haley
1:96cv5697	Cherr-ree Hagans
1:96cv5703	Kathy Sain
1:96cv5708	Melissa Proctor Tina Mills
1:96cv5731	Dawn Deibele
1:96cv5736	Jodi Pearson Julie Pemberton Gwen Pigeon
1:96cv5737	Deanna Papineau
1:96cv5741	Joanna Klinkbeil
1:96cv5744	Lisa Alexander
1:96cv5746	Crystle Coburn

1:96cv5750	Debra Jones
1:96cv5752	Marcus Davis
	Irandesha Davis
	Karla Williams
	Kendall Williams
	Quinnika Williams
	Shannon Evans
	Janelle Evans
	Shanelle Evans
	Danielle Evans
	Gaylon Gilbert
1:96cv5762	La'Shon Willis
1:96cv5765	Carrie Gandolph
1:96cv5784	Yen Vu
1:96cv5785	Rebecca Dwyer
1:96cv5786	Brenda Ezell
1:96cv5787	Jacqueline Reese
1:96cv5799	Jennifer Armstrong
1:96cv5801	Shannon Cooke
	Sherry Cooke
1:96cv5821	Kim Comer
1:96cv5824	Brandie Carnes
	Tonya Walker
1:96cv5825	Pamela Thomas
1:96cv5839	Sabrina Odom
1:96cv5842	Rebecca Wernli
1:96cv5867	Pam Griffin
	Matthew Griffin
1:96cv5870	Cheryl Jackson
1:96cv5876	Tonia Pouncey
1:96cv5882	Davika Lakhram
1:96cv5883	Tamara Cummings
1:96cv5884	Kay Smith
1:96cv5886	Ronda Vogel
1:96cv5892	Lavelle Velez
1:96cv5896	Emily Morrison
1:96cv5912	Camille Hines
1:96cv5916	Melanie Goodman
1:96cv5918	Ilia Santini
1:96cv5922	Jacqueline Moore
1:96cv5982	Nancy Kummer
	Jilletta Wright
	Tara Clayton
	Milly Giles
1:96cv5984	Leicole Henderson
1:96cv5985	Dawn Shoenen
	Marcia Anthony
	Aisha McGuire
1:96cv5986	Sonya Collins
	Wendy Fruechtenicht

1:96cv5986 (Cont.)	Detra Bryant
	Pamela Brown
	Cheryl Little
	Keisha Brown
	Krystal McAtee
	Rebecca Miller
	Heather Stahl
	Michelle Andrews
	Tracy Bratcher
	Kimberly White
	Mary Reardon
	Lisa Hughes
	Rebecca Wiegand
	Carmenlita Smith
	Nedra Blue
	Yolanda Duke
	Mona Hayes
	Melanie Cummins
1:96cv5987	Tara Rogers
	Nicole Atkins
	Cynthia Repine
	Kimberly Beauchamp
	Stacy Lewis
	Melissa Collins
	Rebecca Brown
	Jennifer McClintock
	Rebecca Stotts
	Tammy Howell
	Jayne Burris
	Mary Troupe
	Debran Scott
	Cindy Blanton
	Vicky Leppert
	Malisica Byrd
	Shannon Ludwick
	Julia Hilligross
	Paula Abell
1:96cv5991	Charlotte Schoenagel
1:96cv5993	Kera Holton
1:96cv5994	Kathleen Davis
1:96cv5995	Michele Slaughter
1:96cv5996	Jennifer Schieb
	Deanna Jonas
1:96cv5997	Darcy Webb
1:96cv6034	Hillary Smith
	Viola Buckner
1:96cv6035	Claudia Garcia
1:96cv6037	Tracie Brown
	Nora Elkarany
	Nicole Peterson

1:96cv6045	Annette Flanagan
1:96cv6048	Kimberly McAdams
1:96cv6051	Selena Robles
1:96cv6053	Bernadine Washington
1:96cv6058	Charema Carson
1:96cv6063	Stephanie Harmon
1:96cv6070	Michelle Miller
	Jenifer Oliva
1:96cv6081	Berneikia Stanford
1:96cv6084	Mary Taylor
1:96cv6098	Kimberly Lum
1:96cv6107	Lisa Burgess
1:96cv6112	Summer Gilson
1:96cv6113	LaOllie Taylor
1:96cv6122	Margaret Murphy
1:96cv6132	Tammi Medders
1:96cv6136	Annette Jernigan
1:96cv6145	Melinda Botto
1:96cv6158	Darnie Hibbler
1:96cv6161	Karen Johnson
1:96cv6162	Monica Williams
1:96cv6166	Tina Moore
	Fiesta Murphy
	Shala Perry
1:96cv6167	Vera Mineard
1:96cv6171	Kathy Kuzma
	Melinda Lovaglio
1:96cv6172	Trina Irwin
	Tommiesina Johnson
1:96cv6174	Susan Duet
1:96cv6175	Alicia Chisholm
1:96cv6176	Nicho Bolden
1:96cv6186	Cathy Hutchinson
1:96cv6200	Angela Sanford
1:96cv6205	Raquel Brown
1:96cv6223	Iva Whitlock
	Vernoica Boyles
	Ollie Williams
	Vanessa Norwood
	Loyce Barclay
	Veronica Barrientos
	Cyndi Briggs
	Jennifer Bird
	Irence Ayala
	Taghreed Awad
	Michelle Washington
	Gwendolyn Smith
	Rachel Stuart
	Sherry Clifford

1:96cv6223 (Cont.)	Amy Beers Lisa Northcutt Sandra Cox Vickie Alley Cammi Green Lucy Nipp
1:96cv6224	Fabianne Nunn Maria Trejo Kimberly Martin Janice Peirce Misty Lawrence Debra Johnson Lessie Rogers-Brown Tammy Buckley Felicia Willis Tara Stengel Tonya Wallace Toni Perry Martha Lopez Brandy Perry Lashonda Moss Brandi Hardin Pamela Allen Kristie Bobien
1:96cv6225	Kimberly Yarnell Laurie Short Carrie Robertson Monica Spigner Laquette Lockett Aretha Scott Sharonda Williams Sherri Long Sharon Morehouse Twyla Osborne Tahnya Lewis Priscilla Sampson Karen Wagoner Stacy Murray Shelly Mitcham Pamela Price Denita Sanders Annabell Duron Taree Singleton Carrie Roberts Crystal Bruane Cheryl Braune
1:96cv6226	Lisa Hefner Eileen Hayes Priscilla Hernandez

1:96cv6226 (Cont.)	Wendy Cheum Anntionette Strawn Kretha Ballard-Brown Tammy Wheeler Lawanda Parramore Robin Haynes Robin Yancey Tasha Stafford Sarah Mitchell
1:96cv6227	Carla Hervey P Perkins Crystal Calkins LaWanda Clay Dina Minicucci Jessica Williams Christi Kellar Nora Brown Gracie Alvizo Amber Adkins Kristie Acosta Jackie Allen Angela Whitmer Michelle Hinson Melody Huerta Jennifer Marxmiller Debra McCarter Sharon McGetter
1:96cv6228	Jeanne Flores Oneida Flores Shawna Gibson Patricia Gifford Martha Garcia Mary Goodwin Shelly Gable Marlese Kemp Christina Kemp Mona Lamm Sherri Jones Bridgette Johunkin Joyce Kennon Julieta Corral Jami Johnson Aldrema Conerly Tina Smith Darlene Duckworth Amy Fisher
1:96cv6229	Robin Dye Cheryl Elder Brandy Elbert

1:96cv6229 (Cont.)

Candy Elliot
Pauline Diaz
Tanya Ellis
Tammy Ellis
Lajuanna Emery
Lynn Dempsey
Jean Crawford
Keri Crooks
Lisa Craker
Rhonda Chapman
Sherry Crouch
Cemonia Crowder
Vickie Baylor-McLendon
Bridgette Davis
Regina Cruz
Jolene Holt
Latasha McGuire
Marcella Holland
Donna Holdridge
Kathleen Hodges
Debra Howard
Cheryl Hudson
Carol Young

1:96cv6230

Latasha Jackson
Holly McElroy
Traci Proctor
Lisa Pryor
Shirley Radford
Rachel Reagan
Mary Rusher
Wanda Taylor
Elizabeth Primo
Rose Gomez
Rebecca Gowin
Mira Goode
Joana Gonzales
Delma Sosa

1:96cv6231

Angela Rettig
Shenequil Jackson
Jana Robertson
Cherry Jenkins
Carlotta Johnson
Dalia Resendez
Jeanette Henderson
Maria Rodriquez
Lori Handy
Ernestina Rodriquez
Jennifer Jones
Staci Wallace

1:96cv6231 (Cont.)	Tyra Walker
	Jamie Wherry
	Cheryl Carroll
	Delannia Reed
1:96cv6232	Kristi Thornhill
	Bridget Rose
	Amy Reynolds
	Debbie Foster
	Robbin Ohipps
	Tracy Timm
	Cynthia Taylor
	Shannon Riley
	Annette Calhoun
	Denise Riley
	Wendy Riley
	Kendra Toney
	Shonetta Henderson
	Shanetta Robinson
	Luci Thompson
	Jennifer Tobin
	Tammy Townsend
	Vanessa Urdialez
	Thao Le
	Nancy Reyna
	Crystal Romesburg
1:96cv6233	Karen Morrow
	Susan McKinnerney
	Shawana Reed
	Diane Vasquez
	Tammy Smith
	Tisha Jeffery
	Jennifer Morrison
	Amy Lawrence
	Maria Price
	Valarie Smith
	Paula Yocham
	Laura Thompson
	Tamesha Mosley
	Mary Leming
	Sandra Patterson
	Tricie Washington
	Jacqueline Thomas-Hicks
	Felicia Scurlock
	Tracy Wooly
	Laura Wise
	Jossie Scott
	Louanda Schodts
	Bobbie Martin

1:96cv6234

Gerrianna Patton
Debra Sims
Beverly Gonzales
Vickie Farris
Christine Burke
Crystal Hays
Shelly Story
Jessica Gailey
Maria Rodriquez
Carolyn Jones
Loretta Caldwell
Cherree Reed
Cantrel Laury
Susan Stanfield
Erin Rutledge
Michelle Stanberry
Valarie Hill

1:96cv6235

Lisa O'Boyle
Veronica Cook
Antonia White
Alondria White
Angel Hampton
Ortencia Trujillo
Persephone Burks
Deanine Castro
Anitha Mireless
Torsha Johnson
Rosaura Mergarenjo
Dekieska Tate
Toni Pope
Cassandra Mills
Laura Phillips
Gwen Muller
Shalina Migura
Heather Berry
LaJuana Phillips
Tammy Johns

1:96cv6236

Elizabeth Gatlin
Michelle Hernandez
Patricia Lee
Juanita Bowen
Rena Kitrell
Ragan Kirby
Esmeralda Wilkerson
Jackie Kohr
Lanisha Smith
Robin Frazier
Sheila Wilson
Helen German

1:96cv6237	Rebecca McCaffety Tammy Marling Amanda Martin Benita Bryant
1:96cv6238	Camona Taylor Debbie Wheat
1:96cv6239	Commanda Logan Sophia Lora Jenne Lunsford Violet Miller Angela Moore-Thompson Ethal Moore Anita Morris Dana Nail Toni Ochoa Teresa Reynolds Emily Walzier
1:96cv6240	Tonya Adams Saundra Allen Andrea Amos Tammy Byars Lisa Callahan Melanie Canava Angela Davis Armandina Fennell Lori Foster Amy Hail Charlotte Heist Carri Lewis
1:96cv6270	Tracey Milburn
1:96cv6273	Victoria Johnson
1:96cv6275	Yvonne Walls
1:96cv6282	Charlene Barnhard
1:96cv6289	Yulonda Young
1:96cv6290	Jacqueline Williams
1:96cv6294	Lisa Chillingworth
1:96cv6297	Virginia Hall
1:96cv6316	Nancy Espinosa Ernest Espinosa Gina Horton Ann McAlister Shennika Simmons
1:96cv6321	Deborah McCavey Cindy Tompai Mary Wagner Tasha Wimberly
1:96cv6322	Ashia James Vickie James Teresa Jones Michele Wilson

1:96cv6323	Bridgett McKnight
	Brittain Smith
1:96cv6324	Debbie Boldue
	Laurie DuBose
	Melissa Grant
	Regina Roberts
	Carol Wells
	Desiree Boomer
1:96cv6325	Lakisha Cherry
	Minnie Faust
	Marcella Muller
	Kendra Parker
	Vickie Vaughn
1:96cv6335	Dawn Aguilar
1:96cv6339	Crystal Drettwan
1:97cv6340	Cecilia Puente
	Cesar Puente
1:97cv6343	Jamie Amato
	Jeanette Harmon
	Vanessa Stivey
	Theresa Wells
	Tiphany Wilkerson
1:97cv6345	Shayne Mosteller
1:97cv6361	Pamela Smith
1:97cv6387	Suzanne Evatt
1:97cv6465	Christy Hunt
1:97cv6602	Melissa Thompson
1:97cv6948	Brenda Taylor
1:97cv7029	Bonnie Zimmerman
1:97cv7163	Kathy Reams
1:97cv7310	Rebecca Castleberry
	Lari Cochran
	Kimberly Doke
	Tammy Hopkins
	Constance Jones
	Lisa Lewis
	Elizabeth Morrison
	Bridget Motley
	Michelle Murphy
	Pamela Pearce
	Mandy Strickland
	Janel Stueve
	Carleen Thomas
	Barbara Wade
	Tonya Walden
	Martha Winberry
1:97cv7313	Tracy McClain
	Rene Medina
1:97cv7314	Lisa Blasnek

1:97cv7317	Jamaeka Wilson-Webb
1:97cv7319	Tiffany Jacobson
1:97cv7325	Juanita Razz
1:97cv7333	Kristeen Frost
1:97cv7341	Valerie Caskey
	Josephine Crothers
	Mary Smith
1:97cv7345	Regina Moses
1:97cv7347	Reinella Coates
1:97cv7352	Kim Williams
1:97cv7355	Christina Franco
1:97cv7356	Carolette Meadows
	Karla Soto
	Diana Suarez
	Elsie Virella
1:97cv7360	Charolette Jefferson
1:97cv7361	Kelly-Jo Butler
	Brenda Howe
1:97cv7369	Valorie Whatley
1:97cv7371	Susan Martin
1:97cv7376	Katherine Boyd
1:97cv7398	Shelia Thompson
1:97cv7410	Melinda Andrews
	Iliana Griffin
	Phyllis Hymon
	Darlene Parish
	Tammy Roane
1:97cv7413	Tamara Demers
	Lisa Lopez
1:97cv7414	Tina Campbell
1:97cv7416	Angela Chakeris
1:97cv7417	Janel Bennett
	Mr. Bennett
	Wendy Cloer
	Moses Cloer
	Yvette Wilson
	Terry Wilson
1:97cv7419	Allison Guarino
1:97cv7420	Tina Bullard
	Andrea Fields
	Karen Hardiman
	Shenita Harris
	Sarah Hearne
	Tiheema Howell
	Jennifer Hunt
	Tammy Johnson
	Charlene McCray
	Michelle Price
	Cynthia Quick
	Kisha Owens

1:97cv7429	Jeanne Sample
1:97cv7456	Shirley Keys
	Craig Keys
	Anthony McAfee
1:97cv7457	Marylin Coburn
	Annie Donaldson
	Pamela Small
1:97cv7458	Patricia Carvalho
	Paulette Sinclair
1:97cv7459	Michael Baldino
	Dayna Mooney
	Philip Mooney
	Patricia Pike
	Owen Pike
1:97cv7460	Gwendolyn Anderson
	Otilia Figueroa
	Geovona Mann
	Lenora Moreland
	Sonya Nelms
1:97cv7461	Judy Berg
	Robert Berg
	Libia Demers
	Roland Demers
	Marilyn Eloranta
	Harri Eloranta
	Oscar Gonzalez
	Rosario Gonzalez
	Rafael Gonzalez
1:97cv7463	Laura Crosby
	Shannon McLeland
1:97cv7466	Tawana Robinson
1:97cv7476	Sandra McElmurry
1:97cv7481	Kara Stumpff
1:97cv7490	Katy Goodman
1:97cv7498	Dianna Siebert
	Michael Seibert
	Colby Seibert
1:97cv7499	Jose Fernandes
	Tricia Morgan
	Thomas Morgan
	Stacy Antonakis
1:97cv7500	Nemoneshia Verner
1:97cv7501	Laura Martinez
1:97cv7502	Regina Lawrence
1:97cv7508	Kendal Alkire
	Machell Jordan
1:97cv7531	Shawn Fujita
1:97cv7533	Sheila Johnson
1:97cv7563	Shannon Champagne
1:97cv7568	Regina Hale

1:97cv7569	Bessie Walker Brenda Woodard Kathy Richardson
1:97cv7574	Stefanie Deem Melody Donley
1:97cv7580	Tarri Kimes
1:97cv7582	Velia Dominquez Trinidad Hernandez
1:97cv 7584	Kathy Birschbach Linda Lane Theresa Wolfe
1:97cv7589	Sirena Batek Jacqueline Cook Misty Jaco Kim Laughlin Kerry Logsdon Cintia Martinez Heidee Tiner Consuella Williams Michelle Alcorta
1:97cv7590	Yolanda Aguirre Angelina Cerini Belinda Flores Irma Garcia Angela Griffin Leticia Hernandez Deborah Watkins Lisa Adams Berda Allen Tracy Anderson Pamela Atherton Donna Branscum Angela Bryant Sandra Bustinza ChaSondra Butler Stephanie Cade Maria Castillo Ruth Ortiz-Cloves
1:97cv7591	Mitzi Walter Stephanie Warren Rebecca Watson Brenda Watson Melissa Watson Baisha Williams Felicia Wilson Janet Wise Nicole Zamora Tanya Matthews Crystal McAdoo

1:97cv7591 (Cont.)

Bobbie McCloud
Karen McCoy
Jo McDonough
Dana McLain
Jennifer Mesker
Shannon Miller
Natasha Mitchell
Sonia Moore
Sharma Moreno
Tameka Norman
Jasmine Parkinson
Brenda Perales
Reina Phillips
Denise Pratt

1:97cv7592

Tara Pruitt
Tina Turner
Dorothy Tuya
Kimberly Ussery
Veronica Valencia
Tiffany Vanek
Melissa Vasquez
Alfreda Walker
LaTonya Walker
Regina Walker
Sharonda Walker
Dytra Walton
Regina Warner
Cheryl Washington
Shirley Washington
Thresir White-Christie
Chrissy Wiggins
Latricia Wiggins
Jennifer Wilbanks
Baisha Williams
Cynthia Williams
Mary Williams
Nicole Williams
Nyree Williams
Tonya Williams
Nicole Willis
Arika Woods
Susan Woods
Selia Ybarra

1:97cv7593

Brenda Witt
Amy Holland
Kimberly Agnew
Jacqueline Aldredge
Stephanie Alexander
Kellie Allen
Jacqueline Anderson

1:97cv7593 (Cont.)	Kimberly Andrews Lynessa Andrews Yarnell Baker Paula Barjer LaTonya Barnes Michele Beachum Rachel Benivamonde Peggy Black Tammy Boatwright
1:97cv7594	Gabriella Sanchez Katherine Sexton Crystal Shaffer Sabrina Shepherd Melissa Sheppard Pashaa Simmons Chandra Smith Jennifer Smith Patricia Smith Tanya Smith Rita Sparks Jimmie Sparrow Karin Stanfiel Sandy Stewart Crystal Strange Angela Taylor Dinesha Thomas Tamiko Thomas Kelli Towery Sandra Trevino Patricia Rocha
1:97cv7595	Valerie Richardson JoAnn Rios Kristi Rodecap Marsha Royers Cheryl Rozell Brandi Rutter Jenny Morales Patches Raines Cynthia Ramirez Angela Redden Saundra Reynolds Joette Rioz Valerie Roberts Gayla Rutledge Rosario Sanchez Stacy Sims Sherry Skinner Cynthia Smitherman Pamela Stewart Evelyn Taylor

1:97cv7595 (Cont.)	DeAnn Turner
	Louisa Vidaurre
1:97cv7596	Patti-Jo Moore
	Tonya Moore
	Sandra Morales
	Christina Munrose
	Angela Munson
	Kamelia Osborne
	LaToya Owens
	Lisa Parsons
	Iesha Patterson
	Gena Pierce
	Jennifer Plunkett
	Rhonda Pointer
	Ereka Price
	Sermalia Price
	Jennifer Pringle
	Lanna Ramsey
	Lisa Randon
	Shoa Razvi
	Helen Redmon
1:97cv7597	Amanda Kilgore
	Santillia King
	Sarah Krempf
	Sherry LaFleur
	Serena Lane
	Kimberly Lanza
	Yolanda Lerma
	Angelita Lopez
	Sharon Loring
	Teresa Magallon
	Lucille Mares
	Barbara Martin
	Kimberly McKellar
	Terra McQuay
	Liza Medel
	Beverly Miller
	Cinda Miller
	April Mizzles
	Shalesha Mock
	Yolanda Monks
1:97cv7598	Catrina Harris
	Marilyn Harris-Howard
	Dianne Hasley
	Shelitha Hawkins
	Jessi Hiberd
	Lakeisha Hicks
	LaTricha Holmes
	Mary Hosea
	Pamela Hosea

1:97cv7598 (Cont.)

Dimitri Howard
Demetria Hutch
Yolanda James
Audrey Johnson
Rhonda James-Hampton
Desirra Johnson
Ferlinda Johnson
Helen Johnson
Kristie Johnson
Melinda Johnson
Sandy Johnson
Vivienne Johnson
Carole Jones
Dorothy Jones
Jacklyn Jones
Kelly Junkin
Kelli Kelly
Marlene Kerschen

1:97cv7599

Leslie Harris
Melissa Harris
Shannon Harris
Angela Heady
JoAnn Heredia
Shannon Hetzel
Katrina Hill
Hellen Hooper
Anita Hylen
Angie Jackson
Misty Jenkins
Marlena Jimmerson
Angela Johnson
Pamela Johnson
Jana Kennedy
Valerie Lackey
Patricia Limon
Monica Lopez
Sherwanda King

1:97cv7600

Kyeirdea Edwards
Angelica Flores
Sonya Flowers
Anita Ford
Becky Frerichs
Raquel Gamboa
Brandi Garcia
Betty George
Serena Gilbert
Sonia Girdy
Ofelia Gonzalez
Inez Goodman
Jennifer Goodrich

1:97cv7600 (Cont.)	Kimberly Gore
	Jody Gossett
	Sonia Green
	Tonya Green-Sykes
	Bridget Griffin
	Cherie Griffin
	Crystal Grumbles
	Nichole Hall
	Judith Halley
	Lisa Hancock
	Beverly Harris
1:97cv7601	Robbin Crenshaw
	Marta Croom
	April Curtis
	Lurie Deloff
	Louise Denney
	Cynthia Dorries
	Lana Fultz
	Sharri Gardner
	Crystal Gibson
	Tammy Gibson
	Sue Gober
	Mary Brown
	Kathy Cabler
	LaDawn Capps
	Mariana Chacon
1:97cv7602	Lisa Cisneros
	Rhonda Clark
	Judy Hambrick
	Windy Hill
	Stacey Stowe
	Leah Loomis
	Doris Nash
1:97cv7603	Donna Thompson
	Christine Standish
	Bonita Johnson
	Melissa Russell
	Deanna O'Neil
	Tina Baron
	Clarice Evans
	Angela Jump
	Carol Sharp
	Dawn Kayes
	Robyn Lattan
	Catherine Grant
	Beulah Degen
1:97cv7604	Kristin Warren
1:97cv7620	Angeglica Davila
1:97cv7625	Elizabeth Lavazza
1:97cv7630	Wendy Platt

1:97cv7638	Alice Koehlmoos
1:97cv7647	Sheila Davis
	Karen Bird
	Candice Anderson
	Maureen Capozzoli
	Lisa Montgomery
	Latetia King
	Debbie Graham
	Elizabeth Dhaeseleer
1:97cv7648	Kathy Davis
	Tamara Ayers
	Jackie Berenbrock
	Carmela Deshon
	Leagh Cassell
	Holly Jewell
	Karen Kerbyson
	Joanna Schmidt
	Barbara Bridges
	Uda McCaleb
1:97cv7649	Linda Miles
	Kathy Austin
	Janie Brewington
	Pamela Carter
	Melissa Collins
	Tera Haney
	Tammy McCandless
	Barbara Murray
	Ronda O'Shields
	Glinda Stewart
1:97cv7650	Tammy Turner
1:97cv7651	Michele Adgurson
	Dawn Clarke
	Rene Darbyshire
	Irene Gomez
	Deborah Houghton
	Debbie Houston
	Patricia Lackey
	Frances Lawler
	Cathy Richardson
	Carrie Stewardson
1:97cv7652	Candace Berry
	Belynda Bottoms
	Margaret Coon
	Tammy Prine
	Tammie Shoemaker
	Jennifer Smith
	Linda Street
	Dianna Thomas
	Lori Wren

1:97cv7653	Bobbie Cole Vanessa Gibson Kathryn Kaczorowski Tia Knotts Beth Kunz Tammy Leonard Rachel Smithson Tracy Snyder Brandy Stewart Karen Wheeler
1:97cv7654	Melissa Westbrook Jamie Malone Melissa Holder Terri Lafferty Robyn Tom Bobbie Sadler Tracey Young Debra Wilson Angie Sams Posha Honeycutt Janie Bogue
1:97cv7655	Stacie Johnson Shane Lewis Jamie Mendez Cheryl Reed
1:97cv7656	Tomma Celuch Brandi Christian Delores Frazier Kirston Rodriguez Jodi Yonts
1:97cv7657	Vallera Butler Yvonne Essick Laurie Locker Renee Thomas Kerrie Accornero Cherly Adams Jacqueline Alameda Charlene Alba Antonia Albano Joanne Apodaca Melloney Bailey Alexis Blanchard Siobain Bonilla Michelle Brooks Germaine Brown Margaret Campbell Maria Carrasco Rani Carveo Dianna Cervantes Sherlene Chavez

1:97cv7657 (Cont.)	<p> Vaness Clark Michelle Cohen Michelle Colsell Xandralyne Connors Tonya Cox Michelle Culbertson Sheryl Davis Tracy Davis Rolinda Dees Anja Dellith Rebecca DeRouchey Cari Esposto Lindsey Ewald Natalie Fales Maria Ferguson Selina Fernandes Catherine Burke Catherine Belding Tracy Hoobyar Alice Quinn Robin Rittenhouse Cynthia Trux Kimberly Hill Catherine Morant Denise Murray Crystal Myers Debbie Schmidt Shelly Lemon Jennifer Webb Victoria Williams Mandi Clark Kimberly Edwards Catherine Mangino Melissa Tester Lisa Cole Kristina De La Rosa Tara Deck Norma De La Cruz Lydia Delgado Gracie Dominguez Valerie Dominguez Bridget Erekson Karen Evans Juanita Fears Terri Franks Carmen Garcia Katina Gee Penny Goodwin Kim Harvey Natasha Harvey </p>
1:97cv7658	
1:97cv7659	
1:97cv7660	
1:97cv7661	

1:97cv7661 (Cont.)	Monica Heredia Norma Hermosillo Christie Hobbs Misty Huff Veronica Johnson Tabatha MacDowell Cristina Curiel Carla Collingsworth
1:97cv7662	Lori Vaughn Stacey Wagner Patricia Flynn Karen Hougas Ayanna Hart Lee Seiber
1:97cv7663	Donna Johnson Carolyn Owings Tracy Wilson
1:97cv7664	Tia Cox Lisa Pounds Dawn Williamson Dawn Haymond Katea Johnson
1:97cv7665	Katrina Longhat Serene Schwenneker
1:97cv7666	Pamela Flores Paula Ford Valerie Fuqua Raelynn Gotchell Maria Haase Laura Henry Stacy Holder Lori Iribarren Lisa Isle Gina Jones Kelly Jordan Dawn Karpinski Tracy Kavanaugh Danielle Kempa Julie Kettering Stephanie Kiernan Leslee Logan Kari Logsdon Amanda Martin Paula McAlany Elizabeth McClelland Donise McDaniels Stephanie McLaren Jacqueline Merritt Anush Morales Tammy Morales

1:97cv7666 (Cont.)	Kendra Munroe
	Susan Neese
	Alicia Norgaar
	Lesla Omara
	Raylene Ortega
	Marlina Palomino
1:97cv7667	Phyliss St. Thomas
1:97cv7668	Jennifer-Wells Dumas
	Yolanda King
	Shirl Brown
	Theresa Brown
	Jamie Flippo
	Michelle George
	Shellie Hinsley
	Jenisu Latham
	Kerri Nall
	Angel Reina
	Salena Miller
	Princess Miranda
	Elizabeth Moore
	Melinda Moore
	Norma Morua
	Annita Oxford
	Paula Palmer
	Sharon Pringle
	Anita Ramos
	Michelle Riddle
	Sharon Rincon
	Angela Sandoval
	Roxanne Segovia
	Lyn Spiller
	Rosa Torres
	Melissa Townsend
	Katrina Tutt
	Doris Vaughn
	Angela Watlington
	Joann Woods
1:97cv7669	Deirdre Lindsey
1:97cv7670	Kelly Chipps
	Jan Hite
1:97cv7671	Carrie Campbell
	Lorie Haley
	Lavonne Love
	Stephanie Moore
	Lori Smith
	D. J. Wigley
1:97cv7672	Marva Jones
	Becky Thornton
	Carrie Urquhart
	Tina Steele

1:97cv7672 (Cont.)	Amy Vanhorn Shawnte Maye Karen McConnell Deundra Mitchell Scottie Moody Kathleen Oneal Lisa Harris LoAnn Blanton Sonya Donaldson Jane Cunningham
1:97cv7673	Michelle Seay
1:97cv7676	Sheli Willetts
1:97cv7677	Amy Rivera Kris Margid Lisa Jarrell Tammy Guthrie Sonia Smith
1:97cv7678	Tamara Evans
1:97cv7679	Stephanie Woisard Druecilla Stephens Dena Gennings Holly Jefferson Peggy Neal Destiny Gossett Kira Brown Tracie Gulley Deborah Price Tammy Araujo
1:97cv7680	Heather Hamlet Lisa Hudson Michele McCaskill-Miller Kerry Sanderson Sheree Spanier Rosetta Stephenson Carolyn Stewart Isaueal Valenciano
1:97cv7681	Angela Wagner Bonnie Kruszewski Allison Braje Melissa Rockefeller Peggy Marsh Francine Levallee Laqurdia Robinson Holly Powell Samantha Parker Dorothy Nowatski Dawn Snyder Doreen Hale Jennifer Simmons Felecia Thomas

1:97cv7682	Mickelle Tomlin Carol Staron Denise Martin Jodie Nezdoba Laura Kennedy
1:97cv7683	Victoria Melendez-Smith Naomi Taylor Wendi Snyder Anissa Smothers Trea Jones Julia Jones April Friar Isobel Fitzpatrick Diana Bess Angela Bennett Cindy Campbell-Mosley
1:97cv7684	Susan Shear
1:97cv7685	Michelle Sather Stacey Lloyd Petrina Hill Christina Garvin
1:97cv7686	Elana Basham Carlena Buckner
1:97cv7687	Zanetta Parks Gabrielle Parra Kristie Paulas Joyelle Miller-Phillips Oralia Ramirez Jayne Reizner Enma Rodriguez Marisela Sanchez Theimba Seaich Tracey Shepard Rebecca Sinclair Paula Smith Kiana Reeves Joyce Trent Sherri Vidaurri Kimberly Hall-Sisson Heidi Aranson Billi Coday-Terry Desiree Thayer Kristian Thomas Elyn Timmermans Rachelle Valverde Mayra Vides Nicole Waddell Racheal Welch Robin Wilder Laquinta Williams Danniele Zmak

1:97cv7688	Jennifer Randall
	Jenith Cowley
	Amy Olsen
1:97cv7689	Angella Paloni
	Betsy Galindo
1:97cv7690	Tricia Myers
	Ramoncita Pena
	Tori Moore
	April Wormly
	Katherine Coulombe
	Karen Dunn
	Annette Garcia
	Dawn Petties
1:97cv7696	Heidi Hack
	Shannon Haupt
	Gwendy Hopkins
	Keeshan Jones
	Michelle Toth
1:97cv7712	Joy McGregor
1:97cv7719	Warnell Farrell
1:97cv7733	Stacey Phillips
1:97cv7735	Denise Trujillo
1:97cv7736	Jennifer Drew
1:97cv7744	Brie Ellul
1:97cv7749	Carmen Morrell
1:97cv7750	Cecilia Garcia
	Alicia Risueno
	Karen Zopatti
1:97cv7753	Norma Aguirre
	Ty Buchanan
	Gail Wilkins
1:97cv7756	Roberta Armour
1:97cv7757	Rosie Taylor
1:97cv7758	Michelle Casey
	Lori Bauer
1:97cv7759	Irene Roskovensky
	Dorothy Smith
	Shawna Mead
	Piedad-Bayona Vizcaino
	Diane Thompson
	Melissa McKinney
	Patricia Kelly
	Colleen Valente
1:97cv7761	Sheri Gage
	Monique McCabe
1:97cv7762	Janina Bowman
	Priscilla Calhoun
	Joy Stanley
1:97cv7763	Kim Keeran
	Tammy McDaniels

1:97cv7764	Michell Detour
	Nina Day
1:97cv7765	Michelle Leary
1:97cv7767	Kelly Pezolano
	Jennifer Brown
	Stacey Burnworth
	Teresa Carroll
1:97cv7770	Shari Davis
1:97cv7771	Janise Bryson
	Anna Camden
	Sharon Campbell
	Tonita Channel
	Rachel Chism
	Brenda Christiansen
	Amy Conners
	Paula Cress
	Kurtinya DeBoe
	Marna DeClue
	Jessica Dick
	Christina Dillon
	Julie Dominquez
1:97cv7773	Heather Weir
1:97cv7774	Laurell Bailey
	Lisa Barrett
	Erma Major
	Kristina Palmer
	Penny Shabeeb
	Carmen Washington
	Debbie Alford
	Kenya Collins
	Debbie Lax
	Meredith Smith
1:97cv7775	Nicole Chambers
	Judi Romanski
	Nilsa Cruz
1:97cv7776	Migdalia Luga
1:97cv7777	Tammy Griffin
1:97cv7779	Charlene Armstrong
	Kim Jensen
1:97cv7780	Trina Boone
	Johanna Jones
1:97cv7782	Kathryn Marshall
	Yeyette Sanford
	Suzanne Pitt
1:97cv7783	Mary Hazlewood
	Tina Campbell
1:97cv7784	Susan Edney
1:97cv7785	Alice Weir
	Holly Baker

1:97cv7787	Lisa Downing Angela West Pauline Estes
1:97cv7789	Barbara Lasalla Gretchen Hughes Loretta Glenn Rosa Corporan
1:97cv7790	Haven Hachmeister Nadine Wellington
1:97cv7791	Angelica Garcia Margie Henderson
1:97cv7792	LaChasta Giles
1:97cv7794	Ingrid Hakala
1:97cv7795	Kara Williams
1:97cv7796	Vivian Brown Denise Couplin
1:97cv7798	Kristin Ross
1:97cv7799	Julie Nordsven
1:97cv7801	Marlena Odom Marisol Duque
1:97cv7804	Virginia Peterson
1:97cv7805	Christy Johnson
1:97cv7806	Margaret Boland Mitzi Gentry Felicia Lewis Kimberly Davis
1:97cv7807	Terri Asher Sandra Cox Rochelle Dixon Kimberly Farrell Brandie Freeman Debbie Imhof Lisa Murphy Lisa Rarick Candi Sisk Correna Swaney Stephanie Thompson
1:97cv7808	Rhonda Durham
1:97cv7809	Candace Clark Mona Cowen
1:97cv7810	Julie Hughes Angela Thibodeaux
1:97cv7811	Christina Askew Linda Brown Tawanda Parks Stephanie Chambers
1:97cv7812	Tonya Buschette Joy Wakonabo Carol Brown

1:97cv7814

1:97cv7815

Julie Zemple
Connie Bellinger
Bethann Briere
Jacqueline Tarver
Lisa Seneca
Paulette Skinner
Stacey Sequin
Markina Cosby
Christine Barringer
Kendra Wetmore
Elaina Morgan
Nancy Marshall
Virginia Fuhs
Brenda Chadwick
Sue Nelson
Janene Bouck
Melanie Bates
Kelly Baurle
Cindy Christensen
Bridget Sanderson
Heather Wolf
Ida Dufault
Laura Ferris
Marge Mendez
Tina Evans
Dacey Wills
Jeanine Vautrin
Delia Phelps
Christine Reynolds
Lisa Langdon
Tina Shatraw
Laura Castronuovo
Linda Weikal
Sharon McConnell
Tami McPherson
Rochelle Davis
Lisa Everidge
Lashanda Flether
Trenda Goodman
Felecia Liddell
Shannon Page
Tamara Tate
Zelantra Williams
Christine Wooton
Susan Boyett
Molisia Braswell
Ashley Busby
Terri Finley
Kimberly Fuschini
Michelle Hall

1:97cv7837

1:97cv7839

1:97cv7865

1:97cv7868

1:97cv7868 (Cont.)	Catina Howell
	Nancy Howell
	Becky Humphries
	Anita Jones
	Lula Knight
	Shebretia Livingston
	Pamela Manning
	Barbara Pryor
	Wendy Richardson
	Loyetta Weston
	Sandra Hedrick
	Lisa Arceneaux
	Gail Stockman
1:97cv7884	Jan Meeks
1:97cv7885	Michele Riley
	Angela Rolland
1:97cv7893	Amy Knifer
1:97cv7912	Amy Knifer
1:97cv7917	Shondrikkeyia Gee
	Roosevelt Travis
	Hanoi Gonzalez
1:97cv7926	Christine Lemastres
1:97cv7927	Mary Shinault
1:97cv7948	Tracey Dickerson
1:97cv7968	Marya Marvin
1:97cv7976	Sandra Brewer
	Jackye Brim
	Carolyn Britten
	Kathrene Brunson
	Connie Burroughs
	Maria Chavez
	Belinda Cheney
	Lorie Chumley
	Kara Clawson-Labrot
	Tamika Cleveland
	Lola Coffman
	Lashown Cousar
	Tina Craig
	Delana Crawford
	Dawn Crawley
	Lisa Crocran
	Patricia Daniels
	Tammy Darty
	Cynthia Davenport
	Carlesha Davis
	Angela Dickerson
	Wendy Echols
1:97cv7977	Angelica Remes
1:97cv7978	Theresa Hardy
	Laketa Sutton

1:97cv7993	Tina Barlar
1:97cv8027	Hope Dasher
1:97cv8045	Brandy Adams
1:97cv8049	Tammy Akana
	Isabella Alcantra
	Roberta Casabar
	Cara Castro
	Jelena Clay
	Dena Dooley
	Ann Dugos
	Laurie Freimark
	Furyisa Gagnon
	Lisa Kuahuia
	Kimberly Kuloloia-Juan
	Stacey Martin
	Brandy Mulock
	Milly Orquia
	Erica Poveda
	Lititia Sakai
	Dina Wessel
1:97cv8068	Natasha Alvarado
	Melissa Bell
	Cathy Benoy
	Coleen Bertram
	Karla Bestul
	Kimberly Blalock
	Trisha Brieske
	Stefanie Bunch
	Terry Buttweiler
	Tina Butzer
	Melissa Cornish
	Jordeana Deallenbach
	Collette Davis
	Dana Bernetzke
	Amanda Dycus
	Suzanne Falter
	Stephanie Grambort
	Shelly Grosskreuz
	Donna Hammond
	Jennifer Hayward
	Cynthia Holm
	Yolanda Holmes
	Jada Jackson
	Peggy Jamerson
1:97cv8070	Tammy Johnson
1:97cv8080	Amntina Payano
1:97cv8089	Andrea Radke
1:97cv8093	Maria Martinez
1:97cv8094	Deborah Pogue

1:97cv8123	Natalie Melero
	Jessica Velez
	Ndia Mangual
1:97cv8129	Aretha Tucker
1:97cv8132	Vorita Ackley
	Carolyn Sturm
1:97cv8133	Shirley Newsom
	John Newsom
1:97cv8134	Julie Williams
1:97cv8173	Darlene Patrick-Aust
1:97cv8179	Ralph Cole
	Buddy Simpson
1:97cv8180	Antonio Solorio
1:97cv8184	Vickie Copeland
1:97cv8198	Peggy Tallent
1:97cv8200	Alycia Worth
	David Worth
1:97cv8204	Felicia Howard
1:97cv8205	Joann Fausphoul
	Myarla Poullard
1:97cv8210	Steven Sanchez
1:97cv8219	Carla Brady
	Veronica Ham
	Teresa Smith
1:97cv8226	Marisol Martinez
1:97cv8250	Harold Smith
	Renee Smith
1:97cv8256	Latrise Mitchell
	(Jane Doe) Moody
	Michelle Oberholzer
	Afa Olguin
	Kristeen Parnow
	Phyllis Patterson
	Patricia Preyer-Jones
	Mary Rescigno
	Maria Rjorla
	Carmen Roberts
	Tammi Robinson
	Debra Rodriguez
	Heather Rossman
	Ocotolan Rouse
1:97cv8257	Nancy Miranda
1:97cv8265	Karen Edgett
	Jennifer Atkinson
	Shelly Martin
	Ronda Green
	Trevon Anderson
	Lesa Davis
	Juliette Davis

1:97cv8268	Sundae Weems Malissa Whitfield Kimberly Wilkerson Lydia Williams Stacy Yost
1:97cv8269	Royce Murray Anne Nehring Karen Newton Bernadine Orwan Barbara Patterson Sabrina Perrin Mechelle Porter Santanya Ramsey Terri Redd Kristie Rheubottom Sharon Richardson Terri Schrack Sharrisse Scott Ann Spencer Pearl Tate Sheila Taylor Chenchira Trotter Angela Walters
1:97cv8270	Katherine Freeman Virginia Glickman Japonica Harding Shannon Hardwick Ceneria Hirschowitz Jacquette Hopkins Linda Horton Kimberly Johnson Keri Klausing Nichole Lassiter Tomiko Lovette Mary McAllister Lyndi McDowell Danielle Medley Glenda Mellinger Marquette Mitchell
1:97cv8271	Ruth Arvin Tawanda Baker Theresa Banks Janie Battle Pamela Boom Katina Brown Rachel Carter Kimberly Clemons Angela Coale Donna Cohen

1:97cv8271 (Cont.)	Shakita Cunningham
	Shyreese Daniel
	Lynette Dudley
1:97cv8305	Robert Williams
1:97cv8309	Angela Jensen
	Richard Jensen
1:97cv8310	Sandy Miller
	Robert Miller
1:97cv8312	Angela Holmes
	Lisa Mandell
	Tammy Benner
1:97cv8315	Jessica Font
	Osvaldo Font
1:97cv8325	Debby Allen
	Soraya Ayala
	Pamela Brown
	Jerri Campbell
	Marie Chavez
	Nicole Ciulla
	Sharmari Coates
	Rosa Dunning
	Georgina Fatam
	Kimberly Fields
	Terry Frank
1:97cv8327	Kathryn Bedgood
	Randy Bedgood
1:97cv8328	Rosalea Segura
1:97cv8329	Rebecca Young
1:97cv8333	Denise Clark
1:97cv8335	Susan Lariviere
	Tammy Latham
1:97cv8336	Laura Kimbrell
1:97cv8337	Justina Guy
	Cindy Hammett
	Christine Harvey
	Debra Hayworth
1:97cv8339	Felecia McGruder
	Lakisha Oliver
1:97cv8342	Kimberly Faulks
1:97cv8348	Anita Williams
1:97cv8350	Loree Williams
1:97cv8358	Tammy Latham
1:97cv8359	Laura Kimbrell
1:97cv8361	Justina Guy
1:97cv8362	Cindy Hammett
1:97cv8363	Christine Harvey
1:97cv8364	Debra Hayworth
1:97cv8372	Lakisha Oliver
1:97cv8381	Janet Flanders

1:97cv8384	Kimberly Foster
1:97cv8393	Athena Curry
1:97cv8397	Tammy Spears
1:97cv8398	Patricia Ragan
1:97cv8409	Bernice Anderson
1:97cv8414	Iris Rodriguez
1:97cv8421	Michelle Hardley
	Deshonda Hines
	Carla Johnson
	Jacklyn Jones
	Sherry Lewis
	Jennifer Liebersbach
	Holley Lowe
	Sherry Lowe
	Karen Marin
	Ann McKee
1:97cv8422	Stacey Swenson
	Kyra Tepaski
	Jody Thomas
	Gina Trampush
	Tara Tyler
	Rebecca Vanderwal
	Colleen Wehrly
	Susan Williams
	Tracey Wood
	Kim Zarcone
	Cherilyn Present
	Cynthia Batiste
	Nina Mills
	Regina Prosser
	Sabrina Edmond
	Star Montgomery
	Donna Webb
	Shirley Dickson
	Tammy Boren
	Gloria Lawai
	Christiane Gincore
1:97cv8424	Amy Sifuentes
	Ciro Sifuentes
1:97cv8427	Betty Moore
	Loretta Grigg
	Annie Nguyen
1:97cv8428	Takesha Knox
1:97cv8432	Lisa Sterling
1:97cv8433	Christine Franks
1:97cv8434	Monique Diamond
	Shannon Wilson
1:97cv8435	Chandler Joyce
	Amanda Nix

1:97cv8437	Golden Bradford
1:97cv8439	Rosa Thomas
	Tammy Shelton
	Connie Strickler
	Sheila Walters
1:97cv8440	Tammy Brzezinski
	Elizabeth Belcher
1:97cv8443	Stephanie Burnham
	Jacqueline Burns
	Meladie Carlson
	Terri Casnel
	Deandra Clan
	Aelena Collinson
	Yolanda Curry
	Alyssa Daniel
1:97cv8444	Angela Deloach
	Jeannie Dobbs
	Adrienne Fayard
	Amber Ferguson
	Faith Ford
	Erika Foster
	Ronda Fulgham
	Jacqueline Garrett
	Kathleen Gillum
1:97cv8445	Samantha Gwaltney
	Amanda Hayes
	Jacqueline Hayes
	Frankie Hemphill
	Jana Hoda
	Tina Husband
1:97cv8446	Robin Kane
	Elizabeth Kleinshmidt
	Lisa Langley
	Christy Lapniewsky
	Rene Leonard
	Isakina Little
1:97cv8447	Crystal Lucas
	Sandra Lumpkin
	Meda Magnusen
	Belinda Martin
	Ginger Bergeron
	Jacqueline McClinton
	Mary McConnell
	Angel McGee
	Angel McGee
	Mary Millwood
1:97cv8448	Venescia Owens
	Sophia Parish
	Temeka Parker
	Robin Pascual

1:97cv8448 (Cont.)	Latoya Phillips
	Robin Posey
	Varnieca Price
	Barbara Randle
1:97cv8449	Stephanie Roberson
	Glenda Rogers
	Darlana Ryan
	Amy Smith
	Tamia Smothers
	Bridget Sproles
	Lisa Stone
	Cynthia Stonecypher
1:97cv8450	Randie Bostick
1:97cv8451	Sonya Thompson
	Ellen Turner
	Angela Waltman
	Jeffrey White
	Carlotta Williams
	Rhonda Williams
1:97cv8452	Anjanette Broome
	Tammy Grier
	Amanda Haley
	Kandy Nichols
	Dawn Beckel
	Sherry Sissom
1:97cv8453	Darlene Walters
	Julia Mitchell
	Neckida Young
	Angela Singleton
	Brandi Smathers
	Margo King
	Noretta Coley
1:97cv8454	Karen Adams
	Tonia Bangs
	Joyce Bateman
	Tammie Bell
	Sherri Bobinger
	Stephanie Brown
1:97cv8494	Maribel Miron
	Adrienne Ramirez
1:97cv8496	Asia Ludlow
1:97cv8505	Laverne Steivey
1:97cv8506	Carlos Martinez
1:97cv8507	Francine Kucan
	Jennifer Maile
1:97cv8510	Dayna Pennington
	Murphy Pennington
1:97cv8511	Nicole Weaver
	Lietrese Rogers
	Tiffany Weakley

1:97cv8517	Evelyn Islam
1:97cv8522	Quileisha Jones
1:97cv8523	Tommie Paulk
1:97cv8526	Willie Malone
	Versoal Turner
1:97cv8527	Diana Rosado
	Adriana Morales
1:98cv8533	C Smith
1:98cv8536	Karen Bailey
1:98cv8539	Gale Brown
1:98cv8541	Rubie Castro
	Kari Denison
	Teresa Fuentes
1:98cv8553	Terri Jamison
1:98cv8555	Jody Sangster
	Azalia Vazquez
1:98cv8556	Jan Bolemis
	Heather Brown
	Patricia Emond
	Anne Goyer
	Christine Graff
	Lisa Green
	Stephanie Inscore
	Denise Laroche
	Rebecca Major
	Sandra Moldonaro
	Melisa Pestana
	Virginia Reidy
1:98cv8563	Ashley Stringer
1:98cv8567	Stacey Jackson
1:98cv8577	Monique Burton
	Betty Cole
	Angela Daniels
1:98cv8578	Julie Forbus
	Cynthia Gore
	Linda Greer
	Lena Hall
	Stacy Hardy
	Johnette Harper
	Tomica Harris
	Annzetta Hayes
	Glenna Higbee
1:98cv8579	Catherine Johnson
	Tina Johnson
	Toni Johnson
	Sylvia Leech
1:98cv8580	Sylvia Mallard
	Glenda Mangrum
	Jolene Manuel
	Tammy Meeks

1:98cv8580 (Cont.)	Amanda Moran
	Leanne Netto
	Tiffany Nistor
	Tasha Perkins
1:98cv8581	Constance Peterson
	Sharon Roach
	Latarsha Shaw
	Tracie Shelton
1:98cv8582	Tysha Stewart
	Dawn Swanson
	Dawn Thornton
	Pamela Vasser
1:98cv8583	Natasha Williams
1:98cv8590	Lena McElroy
1:98cv8595	Shannon Sandefur
1:98cv8604	Maureen Bailey
1:98cv8605	Gloria Bell
1:98cv8607	Debra Brumback
1:98cv8609	Theresa Clay
1:98cv8612	Sonya Copeland
1:98cv8615	Beverly Diamond
1:98cv8618	Deborah Fitzpatrick
1:98cv8638	Kimberly Smith
1:98cv8644	Laurie Abney
1:98cv8651	Jennifer Baker
1:98cv8653	Cynthia Basemore
1:98cv8655	Kimberly Bate
1:98cv8660	Nancy Berry
1:98cv8661	Laurie Abney
1:98cv8666	Sotonyio Bonner
1:98cv8670	Laurie Abney
1:98cv8671	Jeanette Bryant
1:98cv8677	Sandra Calhoun
1:98cv8678	Faye Callaway
1:98cv8679	Holly Candellas
1:98cv8681	Amy Childs
1:98cv8686	Akuiller Cole
1:98cv8693	Margie Cunningham
1:98cv8694	Samantha Daniels
1:98cv8695	Alesia Carlette
1:98cv8698	Shawanna Davis
1:98cv8699	Virginia Davis
1:98cv8700	Cathy Dean
1:98cv8704	Terri Doxey
1:98cv8708	Sharon Eason
1:98cv8710	Lori Elmendorf
1:98cv8714	Latarria Farlar
1:98cv8729	Paula Grabowski
1:98cv8732	Jennifer Griffin

1:98cv8734	Beverly Gullede
1:98cv8737	Tiwanda Hampton
1:98cv8739	Amanda Harding
1:98cv8740	Alisha Harris
1:98cv8745	Natasha Hooks
1:98cv8749	Misty Hunter
1:98cv8752	Altovise Jackson
1:98cv8767	Tammy Lee
1:98cv8776	Sarah Mims
1:98cv8777	Katherine Mitcham
1:98cv8786	Felicia Nelson
1:98cv8787	Amy Nicholson
1:98cv8792	Michelle Ogdon
1:98cv8794	Dorothea Oliver
1:98cv8801	Jeanette Phillips
1:98cv8805	Joyce Porter
1:98cv8810	Angela Randall
1:98cv8815	Audrey Robinson
1:98cv8816	Shorne Robinson
1:98cv8818	Celetha Roquemore
1:98cv8823	Jennifer Sanders
1:98cv8825	Jennifer Scott
1:98cv8828	Rosemary Simmons
1:98cv8831	Debra Smith
1:98cv8838	Shaundra Smith
1:98cv8839	Spanjatta Smith
1:98cv8840	Terry Smith
1:98cv8850	Veronia Stubbs
1:98cv8851	Melanie Suddeth
1:98cv8853	Katina Toler
1:98cv8858	Robin Wade
1:98cv8860	Terry Wall
1:98cv8863	Tamisha Wells
1:98cv8865	Lisa White
1:98cv8869	Tamiko Wimberly
1:98cv8875	Katheryn Parrish
1:98cv8882	Karen Teems
1:98cv8885	Tamela Allen
1:98cv8887	Carlene Young
1:98cv8889	Sheryl Gowdy
	John Gowdy
	Jessica Gowdy
	Christopher Gowdy
	Rebecca Gowdy
1:98cv8890	Tina Spear
1:98cv8894	Pamela Maleveaux
	Maribel Contretas
1:98cv8899	Michelle Johnson
1:98cv8901	Victoria Kresse-Troxell

1:98cv8904	Sandra Clemons Evelyn Elliot Ollie Hill Lisa Jensen
1:98cv8905	Christine Pate
1:98cv8913	Charnell Mims Demeko Parker Deborah Pope Kimberly Pressley Celina Robinson Michelle Stallworth Robin Steadman Cynthia Taylor Tammy Walker Natasha Wheeler
1:98cv8917	Ly Perry
1:98cv8920	Lisa Cloyd
1:98cv8923	Bridget Lindner Kathryn Peoples
1:98cv8929	Lacresha Montgomery Yvonne Salazer Jennifer Kinnard Emma Ayon Dorothy Nieto Wakesha Bolen Anna Friedlander Tina Sotelo Sandra Ortiz Tracy Ray Delma Chavez
1:98cv8930	Kristal Garcia Lisa McCellon Heidi Murdock
1:98cv8935	Sherilyn McKenzie
1:99cv8937	Virginia Bozeman
1:99cv8942	Angela Glisson
1:99cv8945	Christa White
1:99cv8950	Janice Airy Seda Avartanian Angela Bonner Tonya Bouillion Kristy Bush Julie Carter Lorelei Flook Angel Freeman Debra Furrh Gina Galicia Abby Garza Beverly Gonzalez Monica Grant

1:99cv8950 (Cont.)

Shameka Griffith
Bonnie Henderson
Pamela Henderson
Joyce Henry
Shanna Hipp
Carla Hornbuckle
Melony Houston
Anita Howard
Yolette Jackson
Shannon Johnson
Twanna Johnson
Stephanie Kiker
Vanessa Mays
Jeaneen Morris
Belinda Morrison
Shelly Myers
Catherine Roche
Michelle Uzzell
Magdalena Velaquez
Monisha Williams

1:99cv8951

Jacquelin Eaglin
Cynthia Beste
Tonya Buschette
Weyaka Cavanaugh
Anita Cloud
Maria Cloud
Consuelo Defoe
Judy Drift
Ingrid Gross
Nicki Heisler
Janice Holstein
Cynthia Jackson
Kristine Manning
Connie Neadeau
Barbara Robinson
Joy Wakonabo
Cynthia Wriskey
Jennifer Lacey
Redfish Candace
Hattie Dunham
Carol Brown
Tammy Blair
Michelle German
Martha Lemay
Melva Clifford
Melanie Maconnell
Tracy Tallman

1:99cv8952

Laura Lee
Christine Bennett
Heather Brown-Johnson

1:99cv8952 (Cont.)

Rhonda Bruce
Roberta Cooper
Kathryn Finley-Volkert
Brenda Book
Amy Hensley
Tamara Janicke
Constance Johnson
Elizabeth Jones
Tina Morris
April Richardson
Kimberly Seagraves
Gina Townsend
Joni Wilson
Dana Adams
Valarie Finn
Kris Lambert
Tina Mahaffey-Simon
Michelle Parson
Paula Smith
Cora Stonewell
Lisa Stratton
Rachel Walsh
Mary Williams
Paula Beaty
Sara Buckley
Lori Cox
Tracy Campell
Angela Griffin
Linda Jones
Peggy Crim
Lisa Grimes
Sharon Ivy
Melinda Williams
Elizabeth Adkins
Donna Bardenwerper
Kimberly Brooks
Barbara Meyer-Spidwell
Christina Ruckin
Paula Young
Angela Barriger
Cathey English
Patricia Gast
Crystal Gonzales
Terrie Gossett
Peggy Hitchcock
Valerie Kent
Melissa Martinez
Aimee Reasoner
Sheilah Mathis
Karen Mooney

1:99cv8953

1:99cv8953 (Cont.)

Kristin Nighswonger
Angela Reed
Sheri Riddle
Rina Sheilds
Jill Streit
Donna Teels
Lisa Townsley
Sheri Vincen
Misty Bowman
Debra Bradshaw
Pauletta Brown
Cheryl Bruckman
Melissa Brundige
Michelle Bucher
Connie Cobb
Polly Daniel
Michelle Davis-Prince
Teri Dollard
Angela English
Nancy French
Lakeshia Hampton
Rebecca Herron
Christina Hill
Pamela Hoskins
Sherry Ingram
Kristi Jeffress
Dena Jennings
Gwendy Mann
April McCauley
Elizabeth McCollum
Robin McSpadden
Rose Merrell
Sadie Mills
Monica Mitchell
Jennifer Morrow
Carol Nichols
Cathy Reynolds
Tammie Schlude
Katrina Solley
Melinda Stackle
Betty Talley-Pruitt
Jennifer Tatum
Dawn Terry
Khristina Ward
Linda White
Yvonne Whitner
Christine Willis
Tina Schmidt
Kelley Winkle
Rhonda Horton

1:99cv8954

1:99cv8954 (Cont.)

Robyn Chistensen
Karen Serrano
Cindi Cave
Faye Cox
Julie Kats
Susan Paggeot
Pamela Robotham
Susan Burzynski
Kerry Crise
Cynthia Cox
Linda Martinson
Jerriann Picton
Tonya Richmond
Sharon Wilson
Candi Bellanger
Robin Knox
Cynthia Slein
Tammy Anderson
Melynda Arnold
Selina Bryant
Theresa Burkett
Sabrina Burley
Anjane Carter
Johnette Carter
Jennifer Carter
Lori Collins
Lateasha Copeland
Yolanda Cornelious
Linda Crews
Tammy Cummings
Debbie Daniels
Glenda Franklin
Betty Fritz
Christina Fulton
Shirley Gardner
Vickie Glass
Bettina Griffin
Mary Griffin
Brenda Grubbs
Linda Hart
Johanna Hill
Michelle Hughes
Randie Johnson
Jodi Jones
Patricia Jones
Ruby Larkins
Joy Lashley
Heather Gilbertson
Marnell Keller
Fanthom Mason

1:99cv8955

1:99cv8955 (Cont.)

Martha Vann
Sandy Ballenger
Relinda Drake
Amanda Durham
Sherri Farley
Paula Gorff
Melissa Green
Lisa Hannawell
Natalie Harris
Anita Hooper
Roxanne Hopple
Natasha Hutchinson
Vickie Jenkins
Wendi Jones
Angela Maddox
Jennifer Martin
Shannon Stephens
Libby Worley
Debra Wolfe
Brandy Bentley
Jodi Branscom
Katherine Carney
Dala Clutter
Jerie Crabtree
Jennifer Fortner
Christy Frank
Misty Frank
Angela Gibson
Connie Henson
Trischa Johnson
Angela Jones
Marlo Keith
Kimberly Lewis
Angeline May
Robin Meadows
Nicolle Randolph
Deanna Smith
Anne Marie Stephens
Kimberly Sturman
Donna Tolle
Jackie Vitali
Kathy Walke
Angela Bennett
Donna Blankenship
Doris Bowers
Tiffany Brown
Melissa Cunningham
Tara Minnick
Teresa Ford
Sally Foster

1:99cv8956

1:99cv8956 (Cont.)

Jill Fox
Elizabeth Gould
Jessica Hall
Tina Harry
Rebecca Hosey
Tanya King
Marie Mallow
Angela Pullin
Elizabeth Raley
Patricia Rotsolk
Tammy Rowe
Laurie Sample
Melinda Shepherd
Heather Stultz
Pamela Swartz
Melissa Taylor
Helen Thornton
Vickie Wilkerson
Anne Wilkins
April Morgan
Angela Manuel
Melissa Martinez
Angel McDonald
Susan McKinley
Tonya McNab
Latishie McNair
April Mercer
Donna Mincey
Amy Moon
Sandra Moon
Suzi Morris
Patricia Moss
Angela Nash
Delisa Renew
Maria Riley
Rebecca Sellers
Joy Skelton
Debbie Smith
Jennifer Smith
Pamela Smith
Cindy Steedley
Jennifer Tawzer
Tracy Taylor
Diane Williams
Tammy Williams
Duretta Billedeaux
Eileen Hoyt
Dawn Anson
Christina Burris
Tamara Clark

1:99cv8957

1:99cv8957 (Cont.)

Diana Cody
Vickie Cooper
Leslie Duncan
Palora Fowler
Shiela Gilbert
Enola Hicks
Sara Hillis
Kimberly Hubbard
Misti King
Tam Le
Heather McCarty
Yolanda McDuffie
Lavenia McFarland
Mary Miller
Rebecca Minton
Linda Price
Stephanie Parker
Tracie Standlee
Sherry Snyder
Tabitha Sixkiller
Brenda Russ
Tina Strunk
Elizabeth Teague
Stacy Tevebaugh
Maria Gonzalez
Mary Hayden
Lisa Jordan
Kay Joslin
Eveline McCombs
Norine Papiese
Robyn Werham
Mei Torgeson
Peggy Dick
Brandy Groves
Nicole Lamotte
Melissa Makler
Jodi McLellan
Rebecca Listol
Tara Steele
Deborah Williamson
Toynette Hill
Karen Leblanc
Chandra Allen
Kelly Adams
Deedre Anderson
Erica Blackman
Julie Deluca
Sheri Ketchins
Linda Valdivieso
Kimberly Dorsey

1:99cv8959

1:99cv8959 (Cont.)

Kimberly Griffin
Bridgett Kennedy
Brandy Quinn
Teneshia Smith
Shantrell Cains
Kristy Stevenson
Regina Scott
Angelle Keeney
Nicole Hicks

1:99cv8960

Rogina Shaw

1:00cv8961

Stacey Clark

1:00cv8962

Jennifer Wilson

Latoya Skillman

Alene Adams

Deidre Bean

Lesta Burgess

Julie Burris

Shana Crosby

Katrina Herring

Rebecca Krouse

Annette Lee

Robin March

Dana Miguez

Marie Morgan

Ginger Newton

Angela Owens

Rae Ayers

Tamara Burnett

Evelyn Childress

Brenda Courtney

Jessica Ebert

Holly Grisby

Teresa Herndon

Tammy Ketchum

Shana McDonald

Tanganyika Reed

Julie Rhea

Tawanda Sherrin

Norma Simpson

Violet Snow

Johnetta Taylor

Jennifer Vaughn

Kathy Vieux

Crystal Walton

Davena Wartchow

Vatesta Washington

Jamsey Weaver

Debra Whitten

Jennifer Williams

Tamma Woulfe

1:00cv8963

Amy Anderson
Jodi Anderson
Eva Bales-Bone
Melissa Bedford
Melissa Buntt
Helen Byrum
Connie Carson
Angela Clark
Kearl Coke
Crystal Coulson
Laura Gildhouse
Lesa Gray
Jennifer Green
Felicia Gregory
Melanie Johnson
Vanetta Johnson
Kelli Jones
Ginger Kirkland
Katrina Lemley
Stephanie Lusby
Lea Malone
Linda McCaul
Antoni McPherson
Elizabeth Michael
Adrian Moore
Talisa Newton
Regina Owens
Jennifer Peevy
Lorie Ray
Lori Readnour
Peggy Rose
Angela Rucker
Ronda Shepherd
Diana Smith
Cindy Stanley
Shawna Steele
Amanda Stroud
Linda Sweezy
Stacey Ward
Cathy Wilson
Marilyn Wood
Laura Kemp
Tammy Ellis
Catherine Bailey-Morgan
Regina Baker
Angie Balentine
Christina Barnhill
Trina Beadle
Dawnya Rice

1:00cv8964

1:00cv8964 (Cont.)

Debbie Blower
Lee Breedlove
Elnora Bridges
Kelley Burris
Cynthia Chapman
Lisa Chatham
Telisa Chavez
Linda Cross
Karla Donaldson
Sandy Ferrell
Lorraine Flournnoy
Brandy Ford
Leigh Freeman
Tracy Goad
Denise Green
Shelly Hickman
Helena Horton
Michelle Jackson
Katherine Kilpatrick
Tammy Lambert
Sherri Jones
Sally McIntosh
Georgina Meis
Monique Murrell
Sonya Powell
Nikki Parton
Natasha Rosaker
Natasha Russell
Jamie Schwarz
Cynthia Shaw
Alicia Smith
Deborah Smith
Lisa Smith
Kim Sowers-Hanson
Angela Spencer
Robin Stevens
Brandi Blower
Sharon Tatum
Adron Bowen
Christina Weins
Sarah Willis
Stephanie Martin
Tracy McDowell
Miriam Garrafa
Sherall Jackson
Shannon Brown
Paula Osborne
Melissa Owen
Jacqueline Poniewierski

1:00cv8965

1:00cv8966

1:00cv8967

1:00cv8967 (Cont.)

Sondra Slone
Laura Smith
Cynthia Robertson
Gail Robert
Angela Thacker
Jennifer Wert
Mary Wilson
Loretta Wilson
Tina Williams
Terri Wright
Susan Padgett
Katina Pannell
Lisa Payton
Tia Plowman
Patty Sallaz
Christine Shultz
Melody Shelton
Veola Shenk
Missy Davis
Jennifer Deeter
Joyce Donan
Kyra Hartwig
Kimberly Allen
Shannon Allen
Melissa Baker
Mindy Barker
Conda Mann
Krissi Handwerger
Tammy Harston
Candy Matthews
Dina Mazurek
Beverly McCarty
Cassie McCarty
Tamara Letcher
Lisa Lewis
Anna Carroll
Dana Collins
Dorothy Joiner
Jerilyn Kaid
Barbara Jones
Terri Bates
Natasha Burris
Holly Bartlett
Linda Barnhardt
Rosa Ozemok
Linda Parker
Susan Aguayo
Gerald Aguayo

1:01cv8968